

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

2016/SMA-22(MS)

September 1, 2016

The Honorable Ernest Y. Martin  
Chair and Presiding Officer  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Martin and Councilmembers:

SUBJECT: Application for a Special Management Area (SMA) Use Permit  
No. 2016/SMA-22

Applicant/	
Landowner:	4607 Kahala LLC
Agent:	Group 70 International LLC (Jeff Overton)
Location:	4607 Kahala Avenue - Kahala
Tax Map Keys:	3-5-5: 16
Acceptance Date:	July 1, 2016

We recommend approval of this application for an SMA Use Permit to allow the construction of three two-story, two-family dwelling units, swimming pools, a rock or concrete masonry unit (CMU) wall, and guest parking areas within the SMA, and minor structures (including open-work fences, a gate, and steps) within the 40-foot shoreline setback area.

Enclosed for your consideration are our Findings of Fact, Conclusions of Law, and Recommendation, Draft Resolution, and the transcript of the Public Hearing held on Wednesday, August 3, 2016. The hearing was attended by 45 members of the public, including the Agent and a representative of the Applicant. Fifteen people provided testimony which is included in the enclosed transcript.


Pursuant to Chapter 25, Revised Ordinances of Honolulu, the City Council must act within 60 calendar days after receipt of our Findings and Recommendation; however, the City Council may extend this period of time upon receipt of a request from the Applicant for an extension. The extension is not automatic and thus, if an extension of time is not requested in a timely manner, the application may be filed due to the Council's time deadline.

RECEIVED  
CITY CLERK  
C & C OF HONOLULU  
2016 SEP - 1 PM 3:10

The Honorable Ernest Y. Martin  
Chair and Presiding Officer  
and Members  
September 1, 2016  
Page 2

Should you have any questions, please feel free to contact me at 768-8000.

Very truly yours,



George I. Atta, FAICP  
Director

Attachments

cc: /Kirk Caldwell, Mayor  
/Roy K. Amemiya, Jr., Managing Director  
/Corporation Counsel  
/Public Hearings Reporter  
/Kober Hanssen Mitchell Architects, Inc. (Kurt Mitchell)



DEPARTMENT OF PLANNING AND PERMITTING  
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION )

BY )

4607 KAHALA LLC )

FOR A )

SPECIAL MANAGEMENT AREA )  
USE PERMIT )

FILE NO. 2016/SMA-22

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND RECOMMENDATION

I. GENERAL INFORMATION

A. Basic Information:

APPLICANT/LANDOWNER:	4607 Kahala LLC
LOCATION:	4607 Kahala Avenue – Kahala (Exhibit A-1)
TAX MAP KEY:	3-5-5: 16
LAND AREA:	1.336 Acres
EXISTING ZONING:	R-7.5 Residential District (Exhibit A-2)
STATE LAND USE DISTRICT:	Urban District
SURROUNDING LAND USES:	Single-family dwellings

- B. Proposal: The Applicant proposes to construct three two-story, two-family dwelling units (for a total of six dwelling units), swimming pools, a rock or concrete masonry unit (CMU) wall, and guest parking areas within the Special Management Area (SMA), along with minor structures (including open-work fences, a gate, and steps) within the 40-foot shoreline setback area. Each two-family dwelling structure will have one unit on the ground floor and the other unit on the second floor. The structures will not exceed 25 feet in height (see Exhibits B-3, B-4, and B-9). One of the dwelling structures, which will have a floor area of approximately 10,280 square feet, will be set back approximately 25 feet from the front property line. The other two dwelling structures, which will each have a floor area of approximately 9,480 square feet, will be located toward the rear (ocean side) of the property. They will be outside the regulatory 40-foot shoreline setback area. Each dwelling unit will have a two-car garage. Ten guest parking spaces will also be provided on the site, for a total of 22 parking spaces (see Exhibits B-1, B-2, and B-5 through B-7).

The new CMU wall will not exceed six feet in height and will run along the front and sides of the property. It will then connect to the existing CMU wall. New landscaping is

proposed along the perimeter of the property and will be integrated throughout the property. The Applicant also proposes to replace the existing fence that runs along the public beach access with a new fence or a CMU wall. Within the rear (ocean side) of the property and within the 40-foot shoreline setback there will be stone steps, an open-work fence and a gate (see Exhibit B-5). These structures will require a Minor Shoreline Structure Permit.

The total development cost for the Project is estimated between \$40 and \$45 million, and the Project is anticipated to be completed in 2019.

## II. FINDINGS OF FACT

On the basis of the evidence presented, the Director has found:

### A. Location:

1. Site: The site is located in the Honolulu District at the intersection of Hunakai Street and Kahala Avenue. The site has a total lot area of 58,207 square feet and is in the R-7.5 Residential District. The site is generally flat but slopes slightly downward at the rear of the lot to a sandy shoreline. The site is currently vacant, with areas of concrete slabs from structures that were previously torn down, and two existing concrete driveways at the front of the property. There are existing CMU walls along the left and right sides of the property and a chain-link fence along the rear of the property. Non-native plants, shrubs, and other vegetation are scattered throughout the property (see Exhibits B-1, B-2, and B-5 through B-7).
2. Surrounding Uses: The Project site is bordered by Kahala Avenue to the north, single-family dwellings and a beach right-of-way to the west, single-family dwellings to the east, and the Pacific Ocean to the south. Also, Waialae Beach Park, Waialae Country Club, and Kahala Resort are approximately 1 mile east; Diamond Head and Kapiolani Community College are approximately 1.5 miles west; and Kahala Mall is 1.3 miles north. The properties in the immediate vicinity of the site are zoned R-7.5 Residential. Further east, there are also properties in the R-5 Residential District (see Exhibit A-2).
3. Drainage: Storm water runoff is absorbed and retained on the Project site by the extensive lawn and landscaping. Excess runoff at the front of the site discharges into an existing 18-inch drain line along Kahala Avenue, and portions of the makai (south) side of the property drain toward the ocean. The drain lines are part of the municipal drainage system for the area. Also, two private drainage inlets are located on the northwestern side of the site, which are connected into the municipal drainage system.
4. Water and Wastewater: Potable water is supplied by municipal lines. The Project site is served by an existing two-inch water meter, which connects to the existing six-inch cast iron water main that extends to Kahala Avenue. There is an existing six-inch private sewer line that serves the property and connects to the 24-inch sewer main along Kahala Avenue.

5. Soils: The soils of the site consist of Beaches and Jaucus Sand, 0 to 15 percent slopes and 1 to 70 percent slopes, respectively, as identified by the U.S. Department of Agriculture Soils Survey Geographic Database. The front half of the property consists of Jaucus Sand series, which has rapid permeability and very slow runoff. The back half of the property consists of Beach series, which consists of light colored sands of seashells and coral, has moderately permeable soils, and rapid runoff.
6. Hydrology: The site is a shoreline lot and is over 3,000 feet from Waialae Stream. The waters in this area are classified as Class A marine waters by the State Department of Health (DOH) water quality standards (Title 11, Chapter 54, Hawaii Administrative Rules [HAR]). The objective of these Rules is to protect Class A waters for recreational purposes and aesthetic enjoyment. Class A waters may not act as receiving water for any discharges which has not received the best degree of treatment or control compatible with criteria established for this class. Waialae Stream is classified as Class 2 inland waters.
7. Coastal Zone Management (CZM): The Project site is located entirely within the SMA (Exhibit A). Therefore, the site is subject to Chapter 205A-2, Hawaii Revised Statutes (HRS). The site is a shoreline lot and is within the tsunami and hurricane evacuation zones.
8. Shoreline and Sea Level Rise: The regulatory shoreline along the rear of the site is approximately 150 feet long and follows along the top of the bank, as certified by the State Department of Land and Natural Resources (DLNR) on December 21, 2015 (see Exhibit B-10). The makai property line is in the ocean. The shoreline setback area is a 40-foot wide strip measured inland from the certified shoreline. The Shoreline Certification Map identifies the erosion condition of the site. The eroded lands seaward of the certified shoreline account for approximately eight percent, or 4,675 square feet, of the property. The portion of the site makai of the certified shoreline is within the State's jurisdiction and is in the State Land Use Conservation District.

The National Oceanic and Atmospheric Administration (NOAA) Sea Level Rise Viewer identifies various levels of sea level rise inundation at high tide. According to the Viewer map, the Project site may be affected by a three-foot relative sea level rise (SLR). SLR occurs where there is a local increase in the level of the ocean relative to the land, which might be due to ocean rise or land subsidence.

9. Flora and Fauna: The existing vegetation in the shoreline area consists of coconut and other palms, naupaka, and false kamani. A few fauna or avian species have been observed on the site. Various species of rats, mongoose, mice, and cats have been found on the site. Doves, sparrows, and finches have been spotted from the site.
10. Historic Sites: The site is currently vacant. It was developed as a residential use for approximately 75 years before the structures were demolished. Three properties within the vicinity of the Project site are listed on the National Register

of Historic Places. They include the Charles A. Simpson House, the J. Alvin Shadinger House, and the Bartlett Cooper House.

- B. Flood District: The Federal Emergency Management Agency Flood Insurance Rate Map (FIRM, Community Panel No. 15003C0369H), of November 5, 2014, indicates the majority of the site is within Flood Zone AO, a portion of the western side of the site is within Flood Zone X, and a portion of the site makai of the shoreline is Flood Zone VE (see Exhibit A-3). Flood Zone AO is determined to have flood depths of one to three feet (usually sheet flow on sloping terrain) with average depths determined. The VE Zone corresponds with the Coastal High Hazard Area, which is defined in Chapter 21A of the Revised Ordinances of Honolulu (ROH) as an area subject to high velocity wave action from storms or seismic sources. Flood Zone X is determined to be located outside the 0.2 percent annual chance of floodplain and is not subject to the flood hazard regulations of Chapter 21A.
- C. Environmental Compliance: The Project requires an SMA Use Permit; therefore, the Applicant was required to prepare an Environmental Assessment (EA) pursuant to Chapter 25, ROH. The Department of Planning and Permitting (DPP) issued a Finding of No Significant Impact (FONSI) on March 24, 2016. The FONSI was published in the Environmental Notice on April 8, 2016. On April 11 and 14, 2016, petitioners opposed to the Project provided information related to the Project and asked the Director of the DPP to reconsider the FONSI. The Director initiated the reconsideration of the FONSI on April 29 and May 6, 2016, based on the new information from the petitioners. On June 19, 2016, after reviewing the petitioners' information and the 13 significance criteria found in Section 11-200-12, HAR, the Director of the DPP reaffirmed the validity of the FONSI and confirmed that the preparation of an Environmental Impact Statement was not necessary.
- D. Consistency with County Plans and Land Use Ordinance (LUO):
1. Development Plan: The site is covered in the General Plan and the Primary Urban Center Development Plan (PUCDP). It is in an area designated as Lower Density Residential on the PUCDP Land Use Map.
  2. Land Use Ordinance: The site is in the R-7.5 Residential District and the portion of the site (i.e., eroded lands) makai of the regulatory shoreline is within the State Land Use Conservation District, which corresponds to and is treated as the P-1 Restricted Preservation District.
- E. Other Permits and Approvals: According to the Applicant, the Project is likely to require the following permits: National Pollutant Discharge Elimination System permit, Water Quality Certification from the DOH, and a Minor Shoreline Structure Permit. Various City construction permits are also necessary, including grubbing, grading, and stockpiling permits; building, electrical, and plumbing permits; a trenching permit; a street usage permit; and sewer connection permits.
- F. Agency Comments: Comments concerning the Project were solicited and received from various government agencies during the EA phase, as well as during the processing of the SMA Use Permit. Agency comments relevant to the SMA Use Permit were



considered, and are discussed under the Analysis Section of this report. Comments were received from the following agencies:

1. City: Board of Water Supply, Department of Design and Construction, Department of Parks and Recreation, Honolulu Fire Department, and Honolulu Police Department.
2. State of Hawaii: Office of Planning; DOH; DLNR Land Division, Division of Aquatic Resources (DAR), and Engineering Division.
3. Federal: U.S. Department of the Interior, Fish and Wildlife Service (USFWS).

- G. Public Hearing and Community Comments: Upon acceptance of the application for processing, informational notices were sent by the DPP to various community organizations, public officials, the Waialae-Kahala Neighborhood Board No. 3, and property owners within 300 feet of the site.

On August 3, 2016, at 10:30 a.m., the DPP held a Public Hearing to receive testimony concerning the SMA Use Permit application at the Kahala Community Park Building. The hearing was attended by about 45 members of the public, including the Agent, a representative of the Applicant, and four DPP staff members. Members of the media were also present at the hearing.

Fifteen people provided testimony, six supporting the Project, eight opposing the Project, and one undecided. Written testimony was received from 22 individuals (16 supporting the Project and six opposing it). Written testimony and oral testimony from the Public Hearing are summarized below:

- The development will cause a negative change in the character of the Kahala neighborhood, which results in a “cumulative impact.” The Project will increase the density and allow a new type of dwelling unit in an essentially single-family residential neighborhood.
- There is a private agreement that restricts the number of dwelling units to one single-family dwelling on the property. (A copy of the lease agreement from 1966 and deed from 1988 were submitted as part of the testimony.)
- The proposed Project will result in an increase in property values, which will have a negative impact on residents of the neighborhood.
- The Project will create precedence for similar types of multiple-dwelling development on a single zoning lot.
- The Project is contrary to the Primary Urban Core Development Plan (PUCDP) and Diamond Head Waialae-Kahala Vision Statement.
- The development is in accordance with the PUCDP and the development standards of the LUO.

- The Project will improve the former Genshiro Kawamoto property, which was not maintained during his ownership.
- The proposed Project will create short-term jobs for local construction trade, and long-term jobs for local property maintenance and landscape businesses.

### III. ANALYSIS

The proposed Project was analyzed in accordance with the objectives, policies, and guidelines established in Sections 25-3.1 and 25-3.2, ROH, as well as Sections 205A-2 and 205A-26, HRS.

- A. Coastal Hazards: The site is a shoreline lot and a portion of the site that is makai of the shoreline is located within a Coastal High Hazard Area (VE Zone), while the other parts of the site are within the X and AO Zones. Also, the entire site is in the tsunami and hurricane evacuation zones. Each structure's finished floor elevation will be constructed at 12 to 12.5 feet above mean sea level to meet floodplain regulations. Also, the dwellings will be set back 40 feet from the certified shoreline and only minor structures will be within the 40-foot shoreline setback area. In the event of a tsunami or hurricane, the shelter area is at Kahala Elementary School and the Tsunami Refuge Center is at the Kahala Community Park.
- B. Alteration to Land Forms: According to the Applicant, mass grading and excavation will be required to level the site topography for construction and facilitate site drainage and landscaping. The property currently has depressed areas due to prior work (e.g., demolition of structures), grading will fill irregular low spots and establish a new datum for determining the base flood elevation and building envelopes. Best Management Practices (BMPs) and detailed grading plans will be reviewed by the DPP's Civil Engineering Branch during the development permit stage.
- C. Drainage: Construction of the dwellings and new impervious surfaces will increase runoff. However, very little off-site runoff is anticipated because the sandy soils on the site are highly permeable. The site is generally divided into two drainage areas: Runoff from the mauka portion of the site will sheet flow through the proposed landscaping towards Kahala Avenue and the makai portion of the site will sheet flow through the proposed landscaping towards the shoreline (see Exhibit B-9).

A comment letter, dated January 4, 2016, from the State DLNR, DAR regarded potential Project impacts on the aquatic environments, particularly caused by runoff. The DAR recommended that all runoff from development activities and any future runoff from the impervious surfaces be routed to the existing two private drainage inlets on the site. They further recommended that the Applicant implement infiltrative BMPs and sustainable design strategies during all construction, grading, and excavation activities to mitigate potential effects to soil erosion and dust generation.

According to the Applicant, the Project will include several infiltrative BMPs to facilitate drainage, including pervious pavements and landscaped areas that will improve drainage, shallow retention basins to collect roof downspout discharge, infiltration basins, infiltration trenches, pervious pavements, and bioretention/dry swales. Details of

the site drainage will be reviewed during the grading and development permit phase. Therefore, as a condition of approval, the Applicant should be required to include details of the infiltrative BMPs to control erosion and sedimentation in the development permit plans and documents. Then, upon implementation, photographs documenting the implementation of the infiltrative technology BMPs should be submitted to the DLNR, DAR.

D. Solid and Liquid Waste Disposal:

1. Solid Waste: Solid waste will be collected and removed from the site by the City and County of Honolulu, Department of Environmental Services.
2. Wastewater Disposal: There are no existing cesspools or septic tanks within the site. A sewer connection application was submitted and approved in October 2014. The City sewer system has adequate capacity to serve the proposed development. No significant wastewater impacts are anticipated.

E. Coastal Ecosystems: The site is a shoreline lot, but no significant impacts to coastal ecosystems are expected as a result of the Project. Impacts to marine species are not expected, as only minor work will occur in the shoreline area of the SMA, and the major development will be entirely mauka of the shoreline setback.

1. Flora: The Applicant proposes to install landscaping throughout the site, utilizing native plants and other flora common in the neighborhood. The DLNR, DAR also commented that any vegetation removal and site clearing and grading will affect the existing exotic shrub and ground cover species, which act as a natural filtration of runoff. Therefore, as a condition of approval, the Applicant should not be allowed to clear vegetation in the shoreline setback area without prior approval by the Director of the DPP.
2. Fauna: A comment letter, dated December 17, 2015, from the U. S. Fish and Wildlife Service (USFWS), was received during the EA process. The comments identified the federally endangered Hawaiian petrel, federally threatened Newell's shearwater, band-rumped storm petrel and several species of Hawaiian seabirds as having a possible presence in the vicinity of the Project area. Also, wedge-tailed shearwaters nest in littoral vegetation along coastlines and nearby offshore islets. The primary concern is the effect of outdoor lighting on the birds. The Hawaiian seabirds fly at night and are attracted to artificially lighted areas. Any increase in the use of night-time lighting, particularly during each year's peak fallout period (September 15 through December 15), could result in additional seabird injury or mortality.

To minimize impacts to the seabirds, outdoor lighting will be designed with sensors, shields, and will be directed downward. The standard condition of approval to prevent any light that directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters should be imposed. Also, construction activities should be limited to daytime only. The Applicant proposes to conduct shoreline surveys prior to construction and during the seabird species' peak breeding season (August through October) to

determine presence and location of nesting areas. This will also be a condition of approval.

- F. Recreational Resources and Shoreline Access: The Project site is adjacent to the public access to the coastal area and is a shoreline lot. The Project will not alter the area seaward of the shoreline and will not affect public use and recreation of beaches near the site. The public beach access will remain with an improved fence or CMU wall. Also, vegetation on the property will be maintained to prevent encroachment onto the public beach area.
- G. Historic and Cultural Resources: An Archaeological Inventory Survey (AIS) and an Archeological Assessment Report was prepared in September, 2015. A Cultural Impact Assessment (CIA) was prepared in October, 2015 as part of the Applicant's EA for the Project. According to the AIS and CIA, no cultural or historic sites or features were identified on the property. However, there is potential for inadvertent discoveries of historic or cultural sites during construction. During construction, if any previously unidentified archaeological sites or remains are encountered, then the Applicant will have to stop work and contact the State Historic Preservation Division (SHPD) immediately. Although this is required by applicable law, it is also a standard condition of approval for SMA permits.
- H. Scenic and Open Space Resources: The Project site is not located within a Special District and does not lie within significant identified mauka-makai or east-west views. The site is surrounded by large lots with residential uses. The residential buildings and landscaping are compatible with the surrounding area. The development will not look different from the street compared to other residential properties found along Kahala Avenue. The dwellings are set back from the front, sides and rear yard setbacks, have relatively flat roofs, and do not exceed 25 feet in height. Also, the property is heavily landscaped and uses native plants that are commonly found in the neighborhood. No significant visual resources effects are anticipated. The proposed development is consistent with the scenic and open space resource goals of the SMA and State CZM program.
- I. Consistency with Land Use Plans and Zoning: The Project is consistent with the objectives and policies of the General Plan, including "Natural Environment" (Objective A, Policies 1, 7, and 8; Objective B, Policy 2), "Public Safety" (Objective B, Policies 2 and 9), and "Culture and Recreation" (Objective B, Policy 3).

The Project site, which is designated as residential use on the Lower Density Residential on the PUCDP Land Use Map, is consistent with the PUCDP Land Use Map. The proposed three two-family dwellings are a permitted principal use in the residential district and comply with the development standards and parking requirements of the LUO. The site is 58,207 square feet, of which, approximately 4,675 square feet is eroded land that is not included in the lot area calculation for purposes of determining the total number of dwelling units permitted on the site. For development purposes the lot size (minus the erosion area) is 53,532 square feet. Therefore, seven single-family dwelling units or three two-family dwelling units are permitted on the site.

- J. Deed Restrictions: A number of testifiers at the August 3, 2016 Public Hearing discussed the deed restriction imposed on various properties in the Kahala



neighborhood, which they say limits development to a single-family dwelling. The DPP received a copy of the lease agreement, dated August 17, 1966, and deed of sale, dated May 10, 1988. The lease included language that held the same lease terms from April 1, 1964 which limited the use of the site "for residential purposes, and will not at any time during said term erect, place, maintain or allow on said premises more than one single-family dwelling." The lease had a 55-year term and would have terminated in 2019. However, according to the Applicant, the lease was effectively terminated when the fee simple interest in the parcel was acquired by a buyer in 1988, and a deed was issued. All subsequent deeds thereafter did not include any reference to the lease.

For purposes of the SMA, deed and/or lease restrictions are not criteria by which the Project is analyzed. The interpretation of such documents, furthermore, is outside of the purview of this permit and is a civil matter.

#### IV. CONCLUSIONS OF LAW

The proposed development was reviewed under the provisions of Sections 25-3.1 and 25-3.2, ROH, and Sections 205A-2 and 205A-26, HRS, and found to be consistent with established SMA objectives, policies, and guidelines. Based on the Analysis, the proposed three two-family dwellings and ancillary site improvements will not adversely impact SMA resources, provided that appropriate mitigative conditions are observed.

#### V. RECOMMENDATION

It is recommended that the application for a SMA Use Permit be APPROVED, subject to the following conditions:

- A. Construction of three new two-story, two-family dwelling units, swimming pools, a rock or CMU wall, and guest parking areas, and minor structures within the shoreline setback area, including open-work fences, a gate, and steps within the shoreline setback area, shall be in general conformity with the Project as described in the Report and Recommendation by the Director of the DPP, and as depicted in Exhibits B-1 through B-10. Any changes in the size or nature of the Project which have a significant effect on coastal resources addressed in Chapter 25, ROH, and Chapter 205-A, HRS, shall require a new application. Any changes which do not have a significant effect on coastal resources shall be considered a minor modification and therefore permitted under this resolution, upon review and approval of the Director of the DPP.
- B. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls) are encountered, the Applicant shall stop work and contact the DLNR, SHPD immediately. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.
- C. Artificial light from exterior light fixtures, including, but not necessarily limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property

boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), HRS.

- D. Prior to any site work, the Applicant shall conduct surveys to determine the presence and/or location of seabird nesting areas within the property. No potentially disruptive activities shall occur during the breeding season (August through October) or in the vicinity of any identified nests of protected seabirds. Any observations of any threatened or endangered species in the Project area during site preparation and construction shall be reported to the DLNR DAR.
- E. All site work and/or construction activities shall be limited to daytime only.
- F. Established vegetation along the shoreline shall be maintained and shall not be removed without prior review and approval by the Director of the DPP.
- G. All minor structures (i.e., irrigation, fences, gates, and pavers) shall be contained and maintained within the property lines of the lot of origin, and shall under no circumstances extend seaward of the shoreline as depicted on the certified shoreline survey for the lot dated December 21, 2015.
- H. The Applicant shall implement infiltrative technology BMPs and construction processes to control erosion and sedimentation. The grading and development permit applications shall detail the BMPs. Upon implementation, photographs documenting the infiltrative technology BMPs and construction processes shall be submitted to the DLNR, DAR, with a copy to the DPP.
- I. Approval of this SMA Use Permit does not constitute compliance with other LUO or other governmental requirements, including grading and grubbing permits. They are subject to separate review and approval. The Applicant will be responsible for insuring that the final plans for the Project approved under this permit comply with all applicable LUO and other governmental provisions and requirements.
- J. **The Applicant shall obtain a development permit for the proposed development within two years of the date of this permit.** Failure to obtain a development permit within this period shall render this permit null and void, provided that this period may be extended as follows: The Director of the DPP may extend this period if the Applicant demonstrates good cause, but the period shall not be extended beyond one year from the initial deadline set by the City Council.

If the Applicant demonstrates good cause for an extension exceeding one year, the Director shall prepare and submit to the Council a report on the proposed extension, which the report shall include the Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution. If the Council fails to take final action on the proposed extension within the first to occur of: (a) 60 days after receipt of the Director's report; or, (b) the Applicant's then-existing deadline for obtaining a building permit, the extension shall be deemed to be denied.

Dated at Honolulu, Hawaii, this 1st day of September, 2016.

Department of Planning and Permitting  
City and County of Honolulu  
State of Hawaii

By   
George I. Atta, FAICP  
Director

Attachments

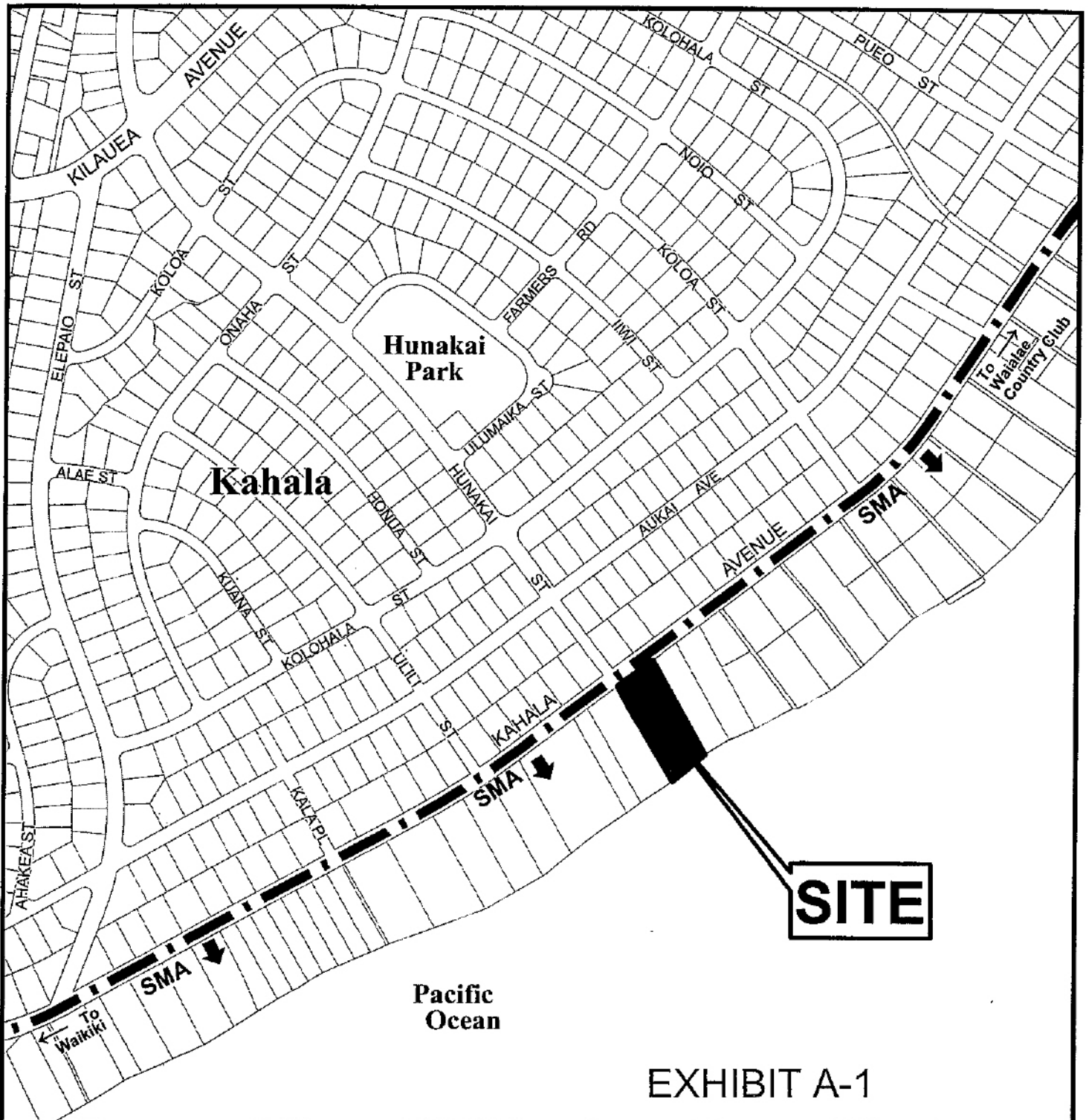
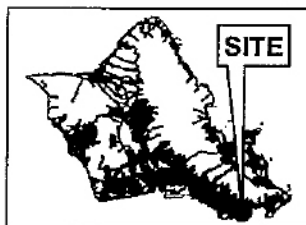


EXHIBIT A-1



500 250 0 500

Scale in Feet



VICINITY MAP



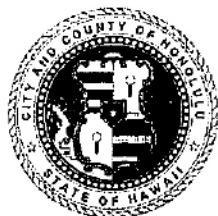
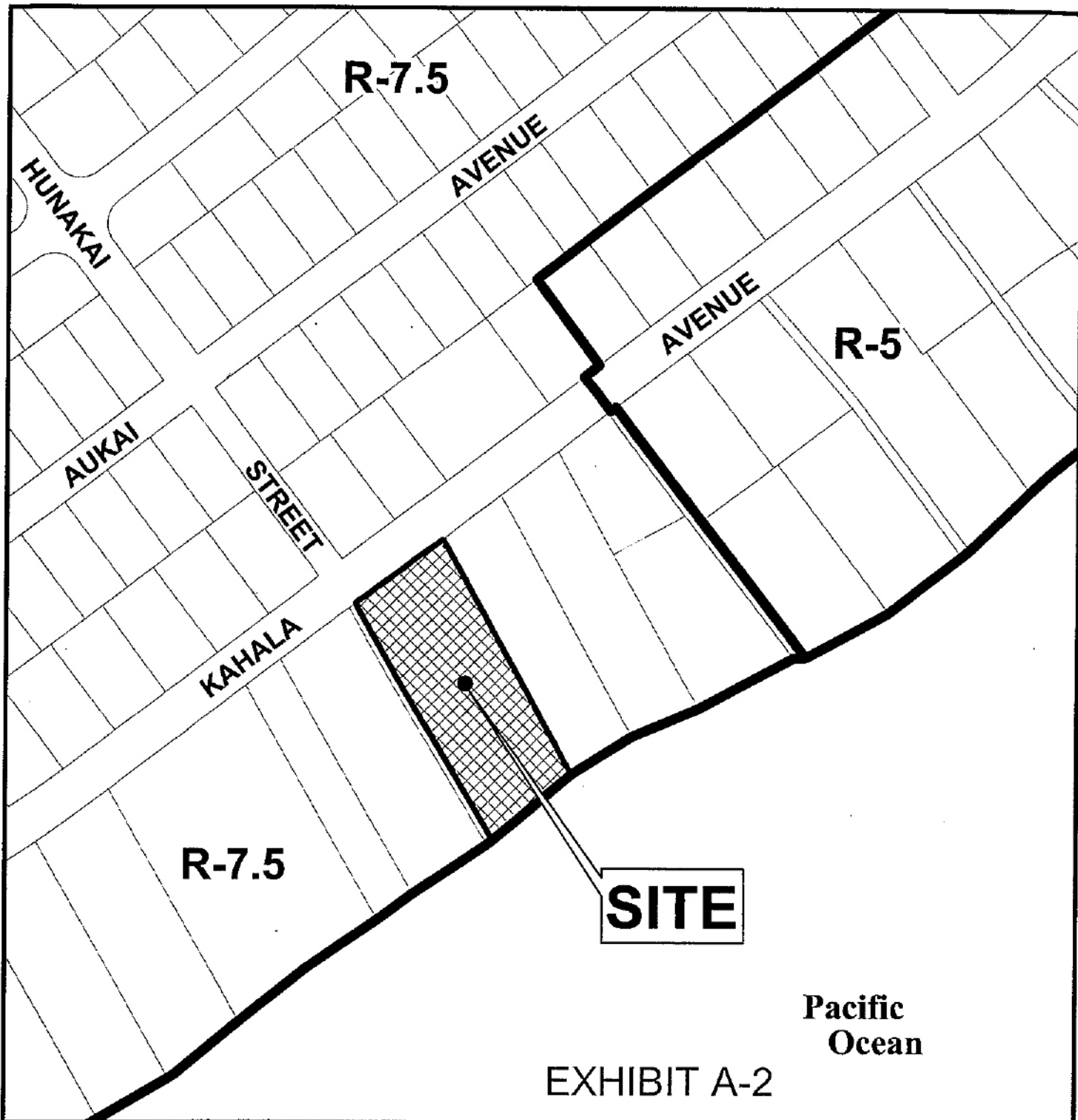
## LOCATION MAP with SMA

### KAHALA

TAX MAP KEY(S): 3-5-05: 16

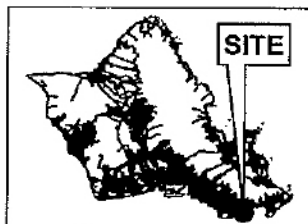
FOLDER NOs.: 2016/SMA-22





200 100 0 200

Scale in Feet



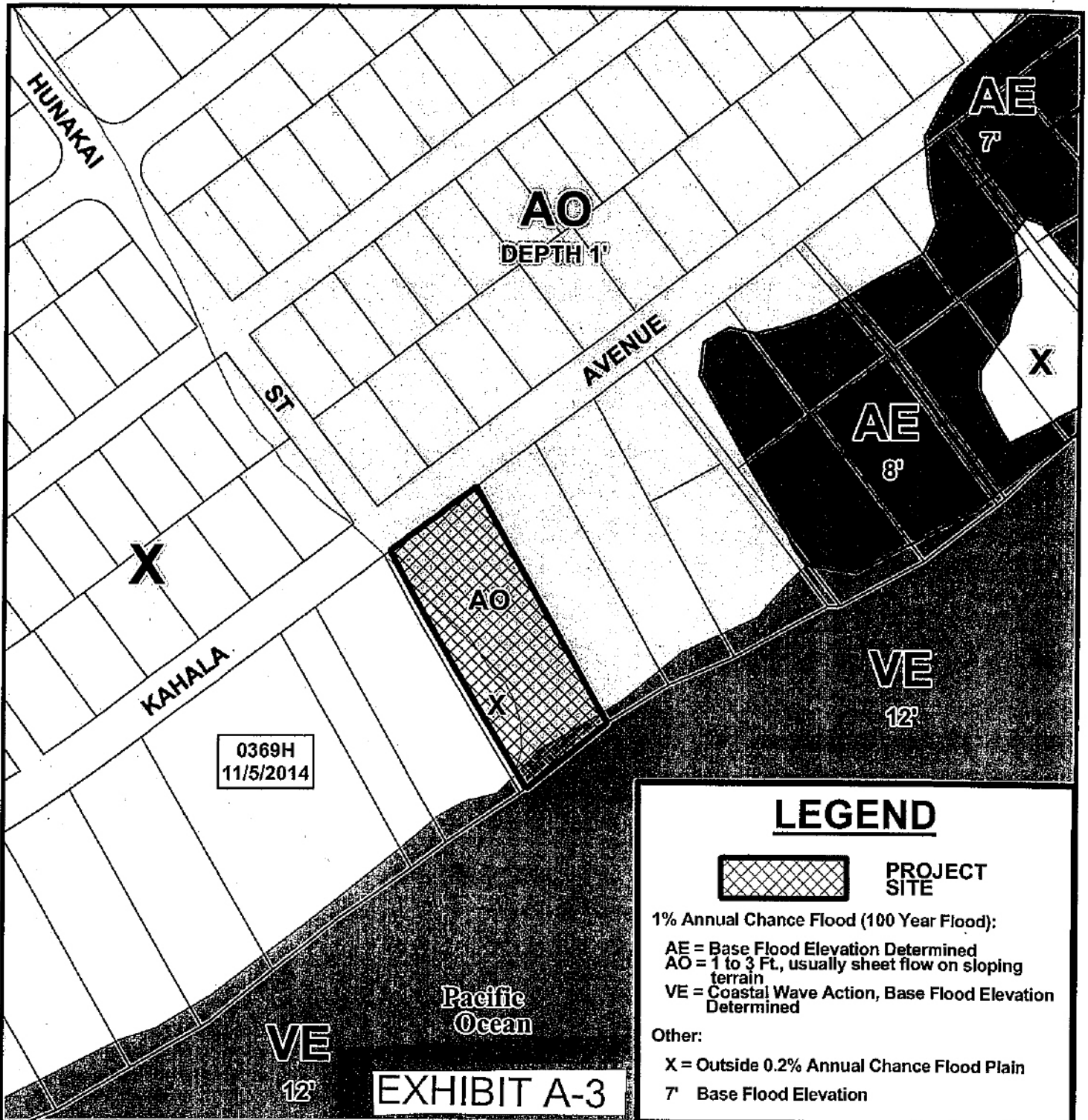
VICINITY MAP



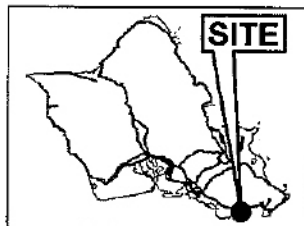
**PORTION OF  
ZONING MAP  
KAHALA - KULIOUOU**

**TAX MAP KEY(S): 3-5-05: 16**

**FOLDER NO.: 2016/SMA-22**



200 100 0 200  
 Scale in Feet



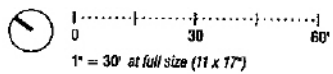
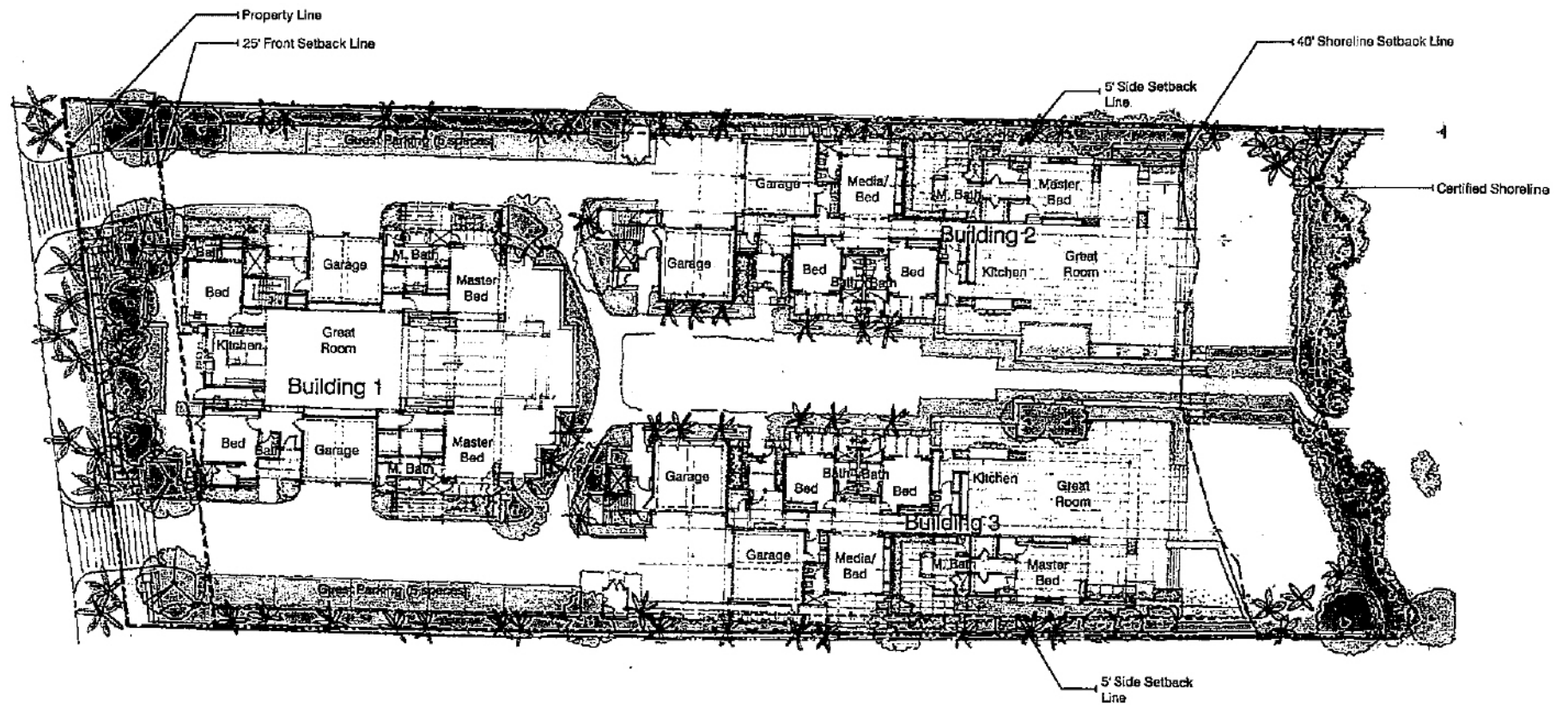
VICINITY MAP



**PORTION OF**  
**FLOOD HAZARD MAP**  
**FIRM PANEL 369H (11/5/2014)**

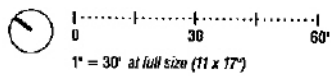
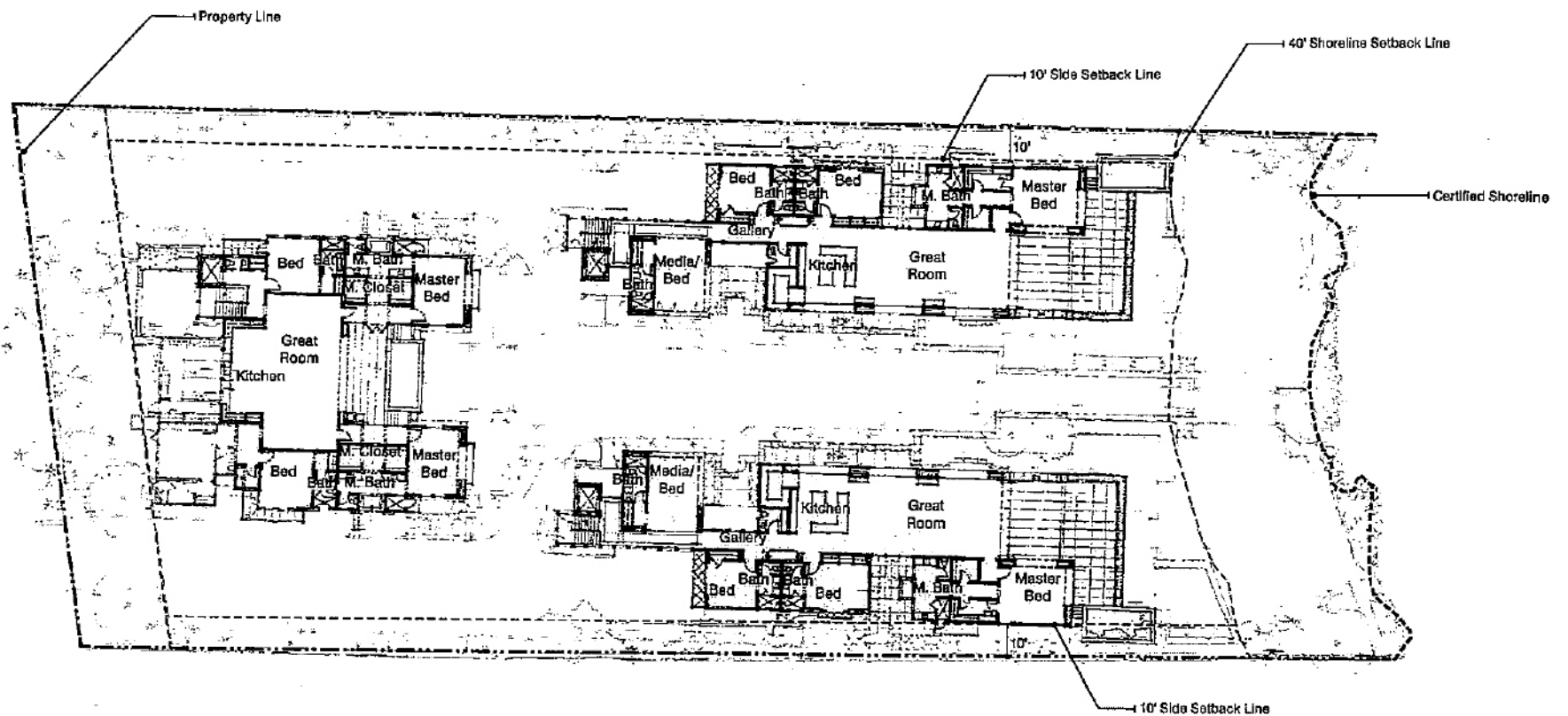
**TAX MAP KEY(S): 3-5-05: 16**

**FOLDER NOS.: 2016/SMA-22**



## First Floor Plan

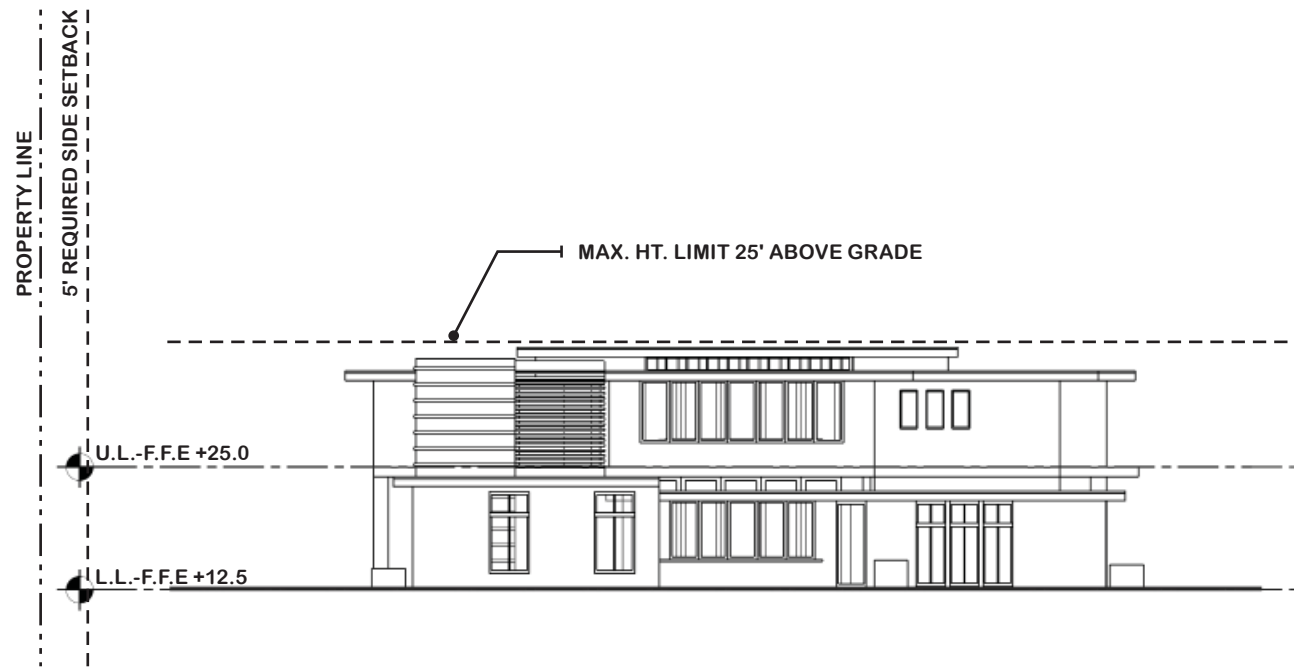
Exhibit B-1  
File No. 2016/SMA-22



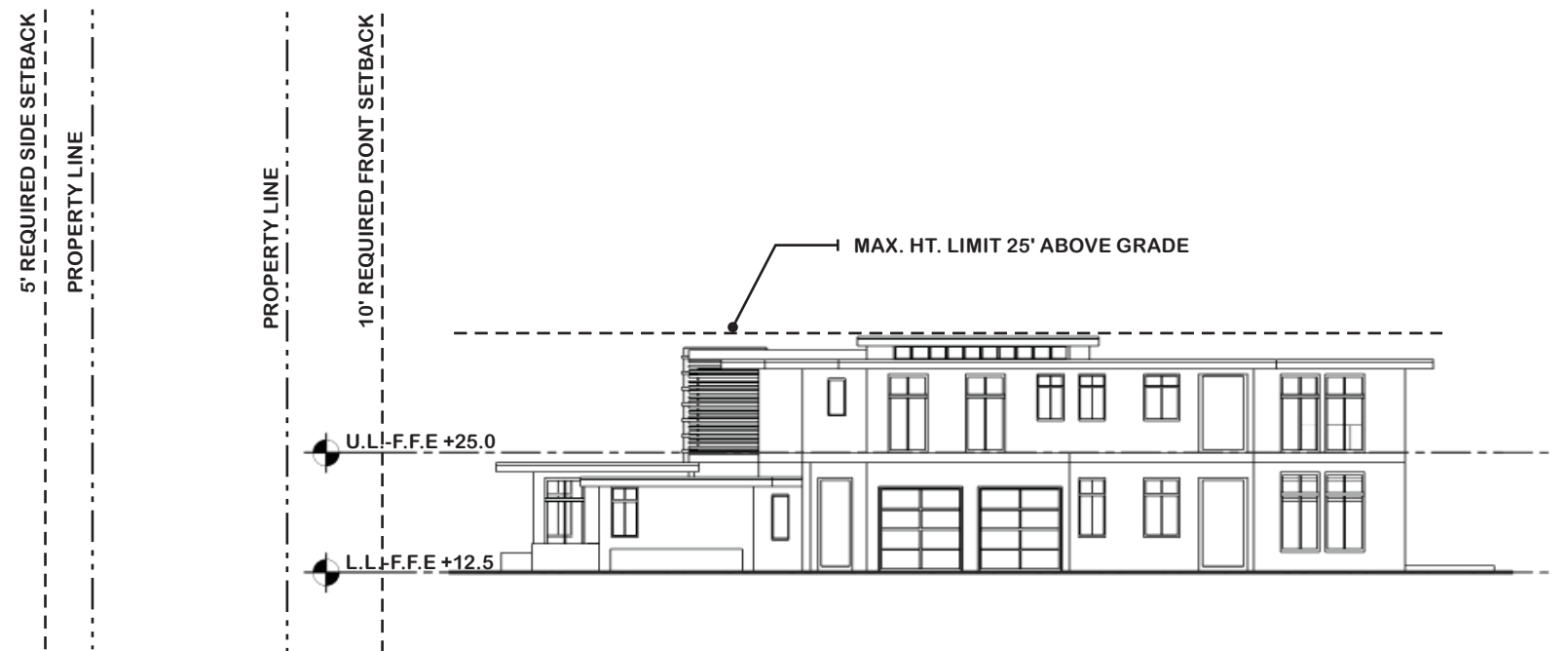
## Second Floor Plan

Exhibit B-2  
File No. 2016/SMA-22

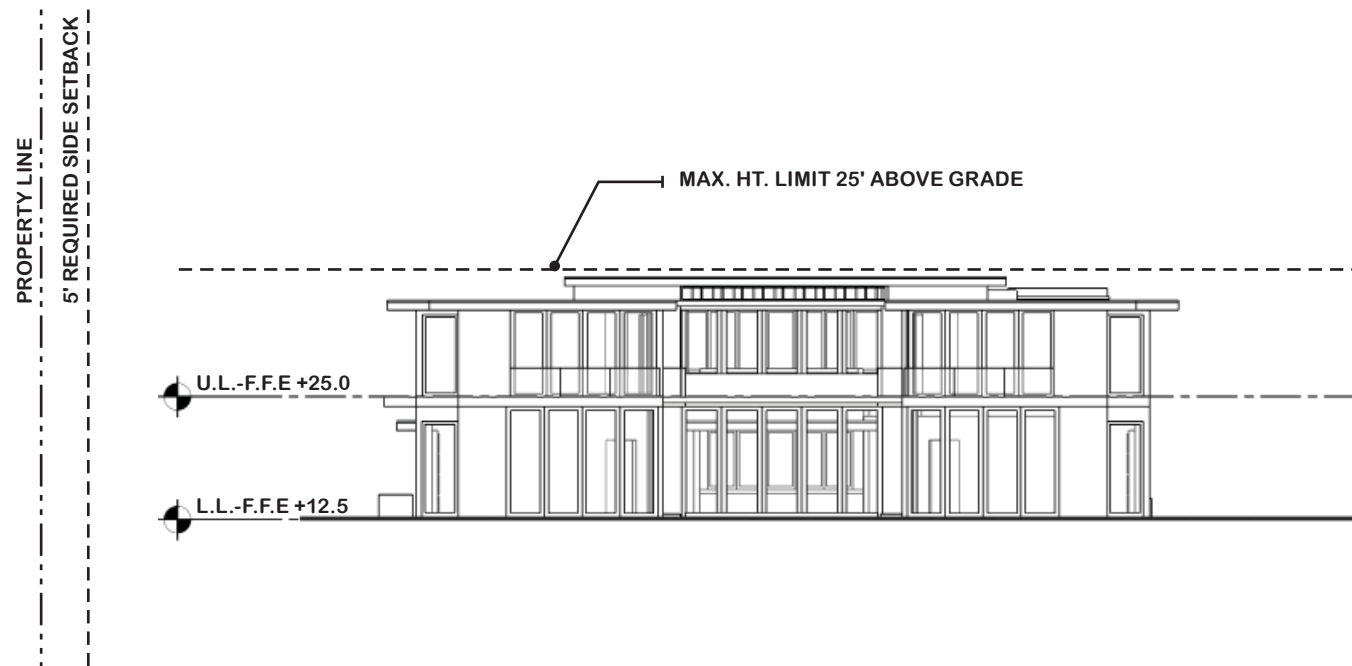




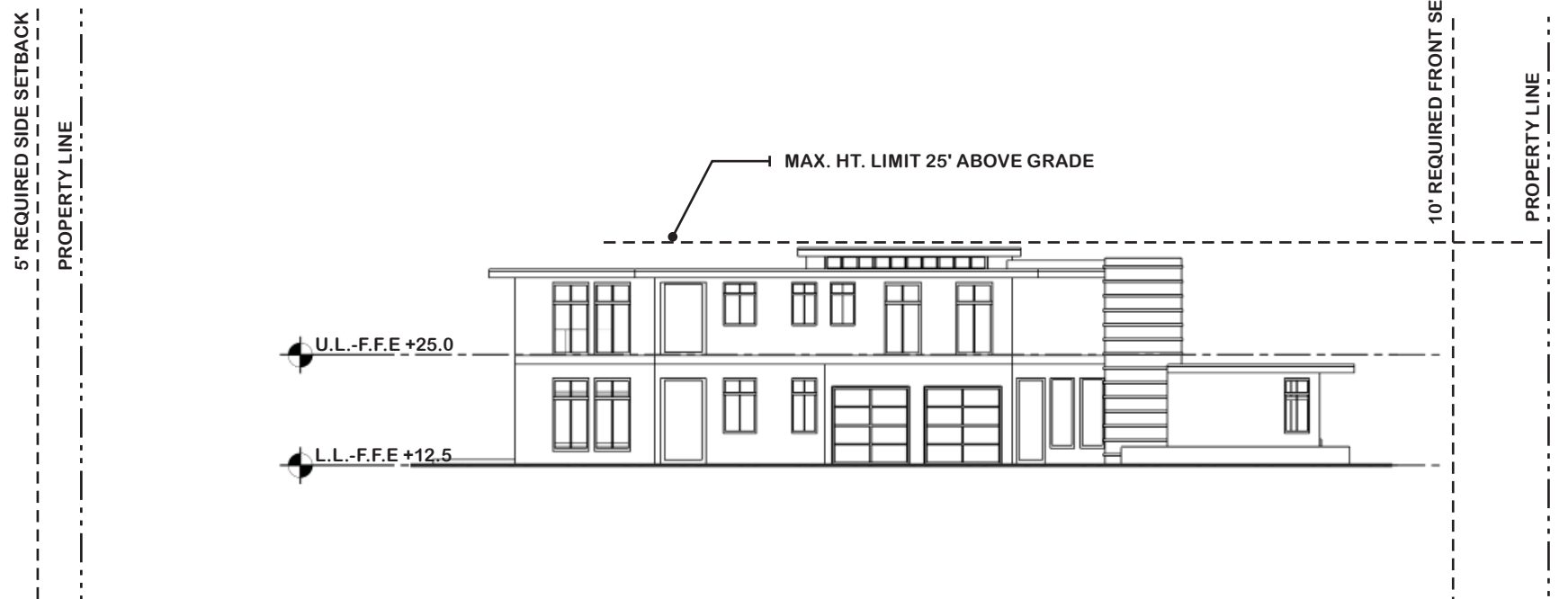
Building 1 North Elevation



Building 1 East Elevation



Building 1 South Elevation

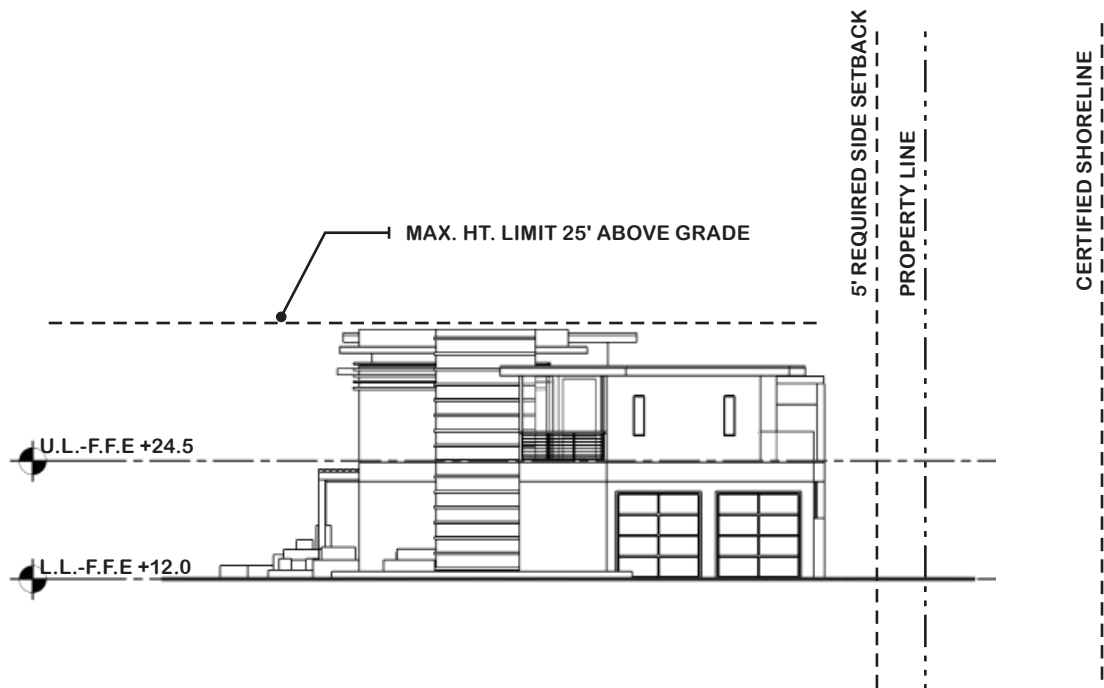


Building 1 West Elevation

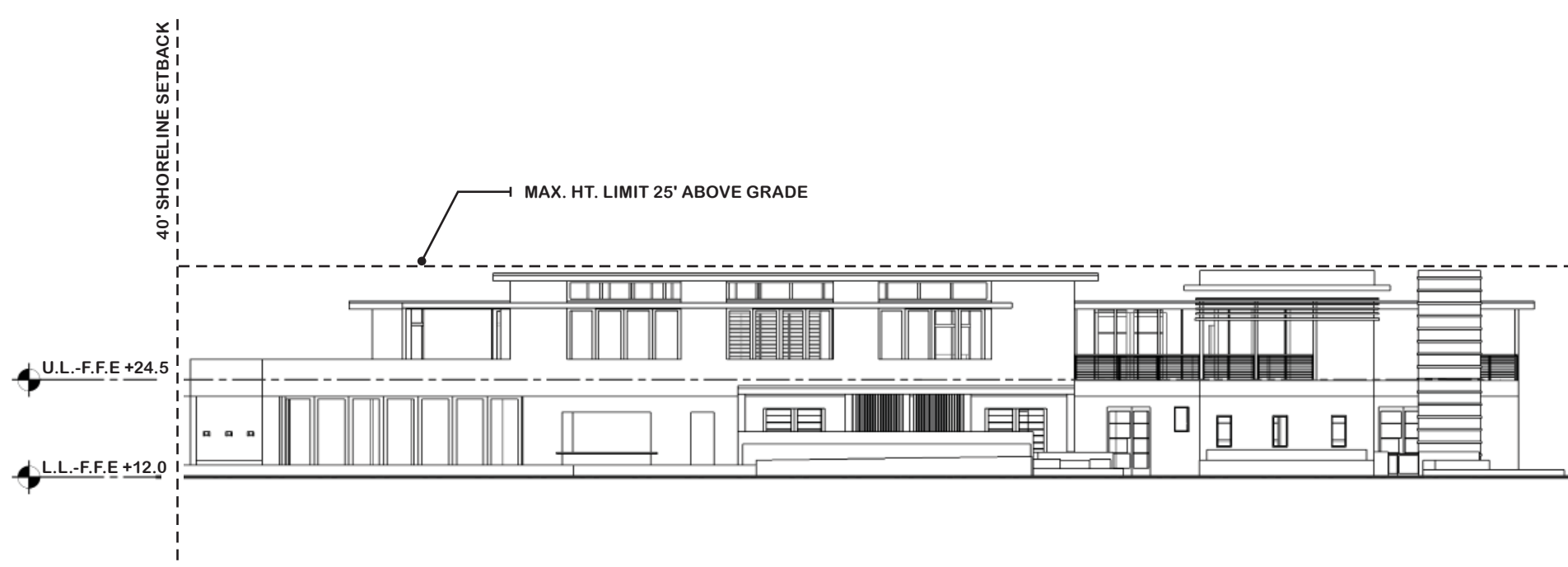
0 20 40'  
1" = 20' at full size (11 x 17")

Exhibit B-3  
File No. 2016/SMA-22

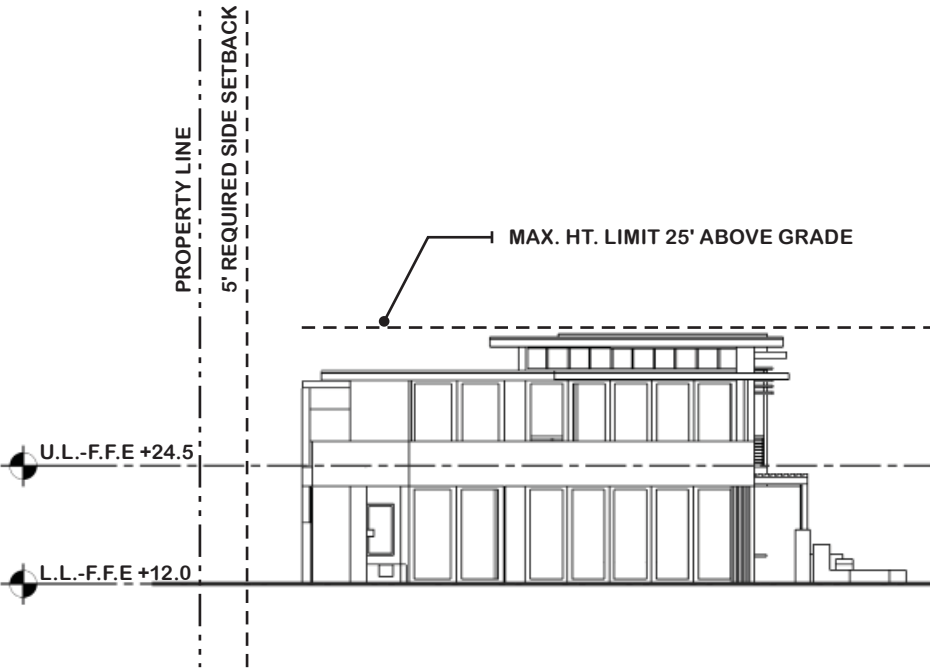
## Elevations



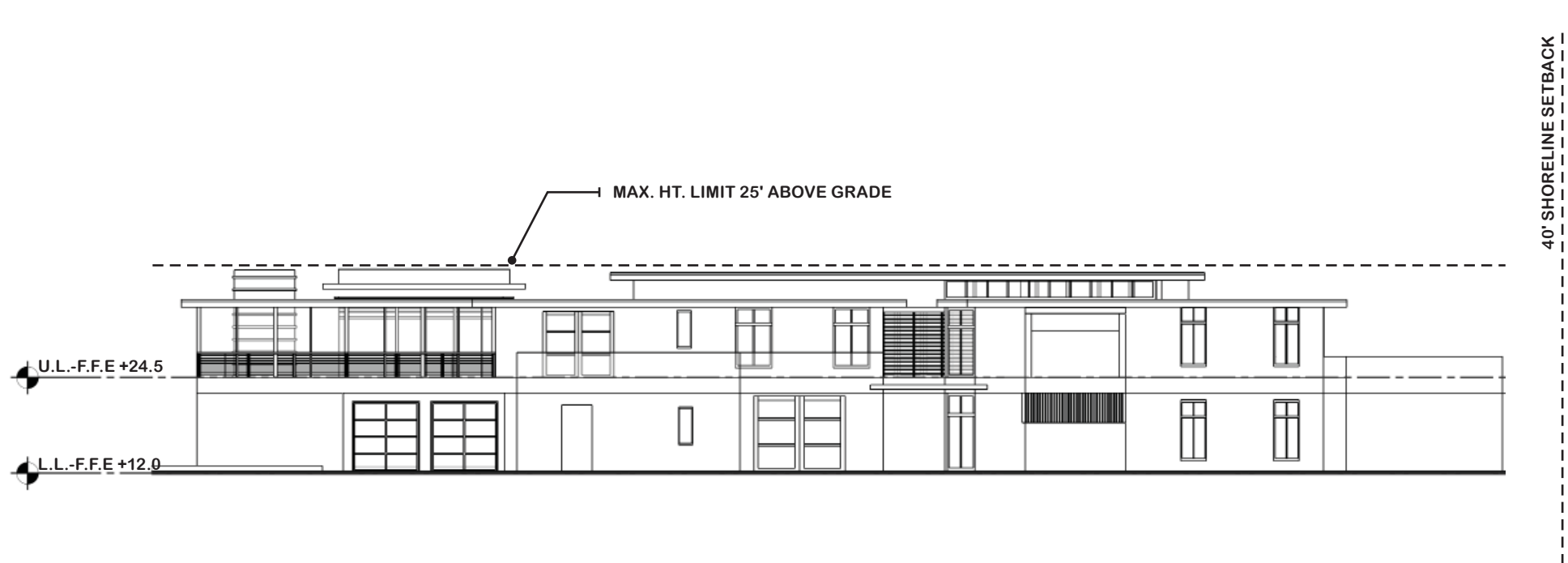
*Building 3 North Elevation*



*Building 3 East Elevation*



*Building 3 South Elevation*



*Building 3 West Elevation*

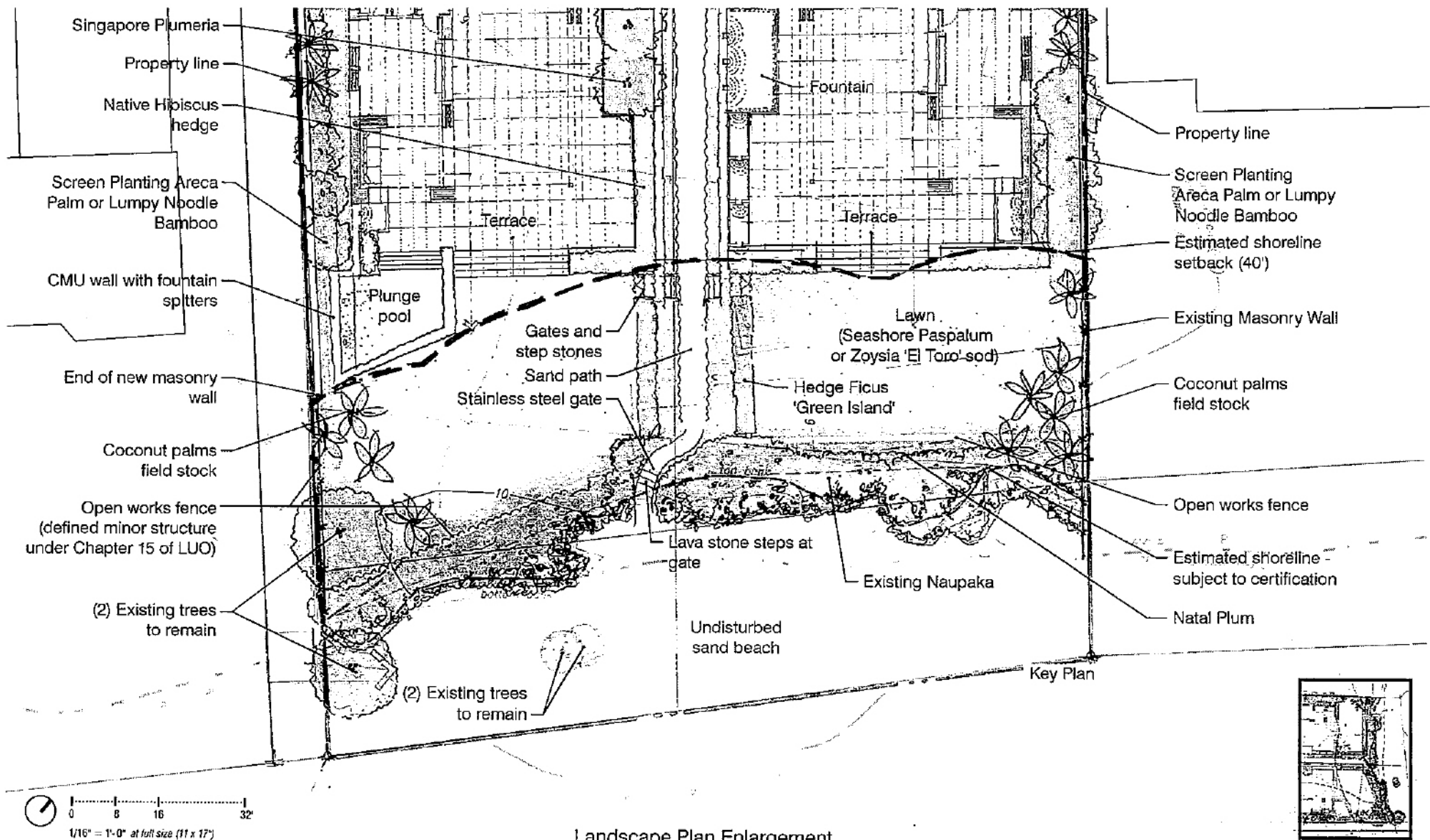
0 20 40'

1" = 20' at full size (11 x 17")

Exhibit B-4  
File No. 2016/SMA-22

Elevations

*Note: Building 2 identical to Building 3 but mirrored*



Landscape Plan Enlargement

Exhibit B-5  
File No. 2016/SMA-22

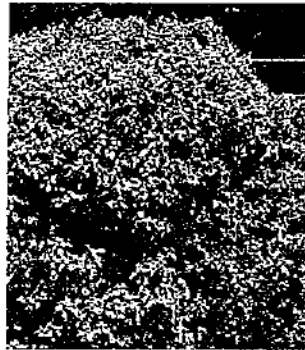
## Smaller Shrubs



Green Ti



Purple Spider Lily



Kului



Beach Naupaka



Crinum Lily



Giant White Thunbergia

## Vines

## Groundcovers



Kupukupu Fern



Carex



Ukiuki



Akia



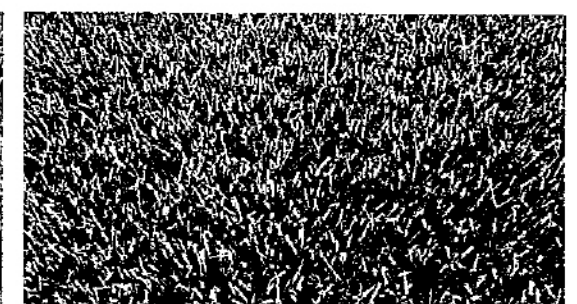
Kangaroo Paw Laua'e



Pohinahina



Ulei



'El Toro' Zoysia Lawn

## Palms and Trees



Coconut Palm



Areca Palm



Thornless Hala Tree

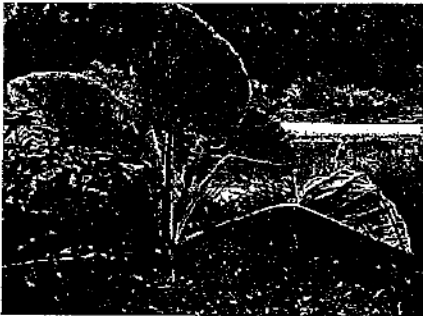


Singapore Plumeria



Loulou Palm

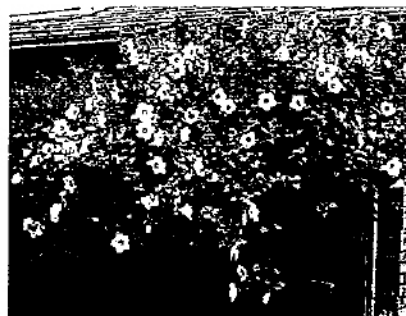
## Tall Shrubs



Borneo Giant 'Ape'



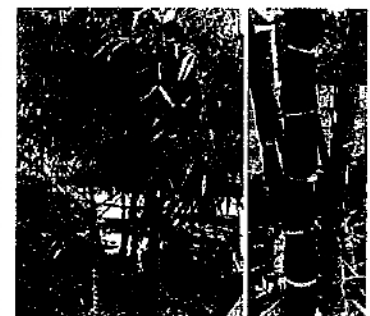
Natal Plum



Native White Hibiscus



Native Red Hibiscus



'Buddah Belly' Bamboo



Dwarf 'Ape' (*A. gageana*)



Lumpy Noodle Bamboo



Red Ginger



'Burle Marx' Philodendron

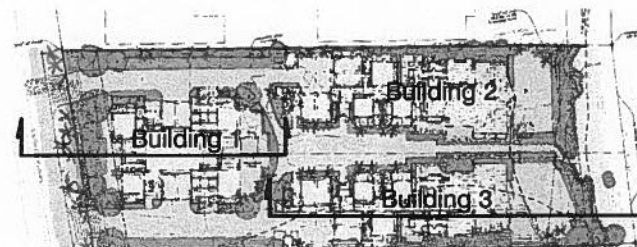
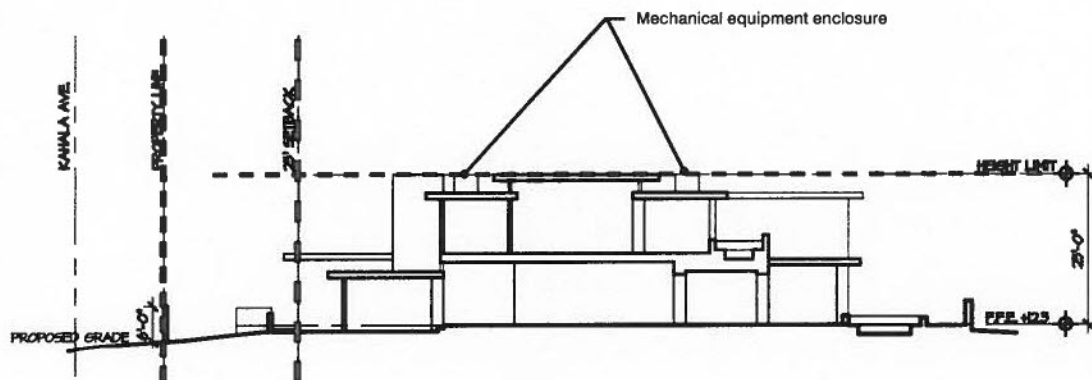
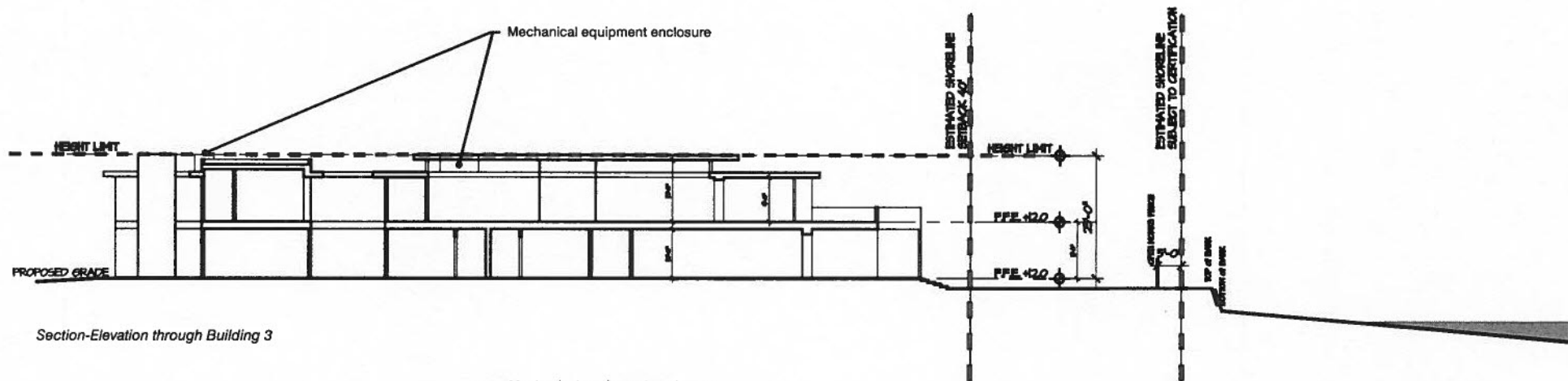


Nau Gardenia

## Plant Palette

Exhibit B-7

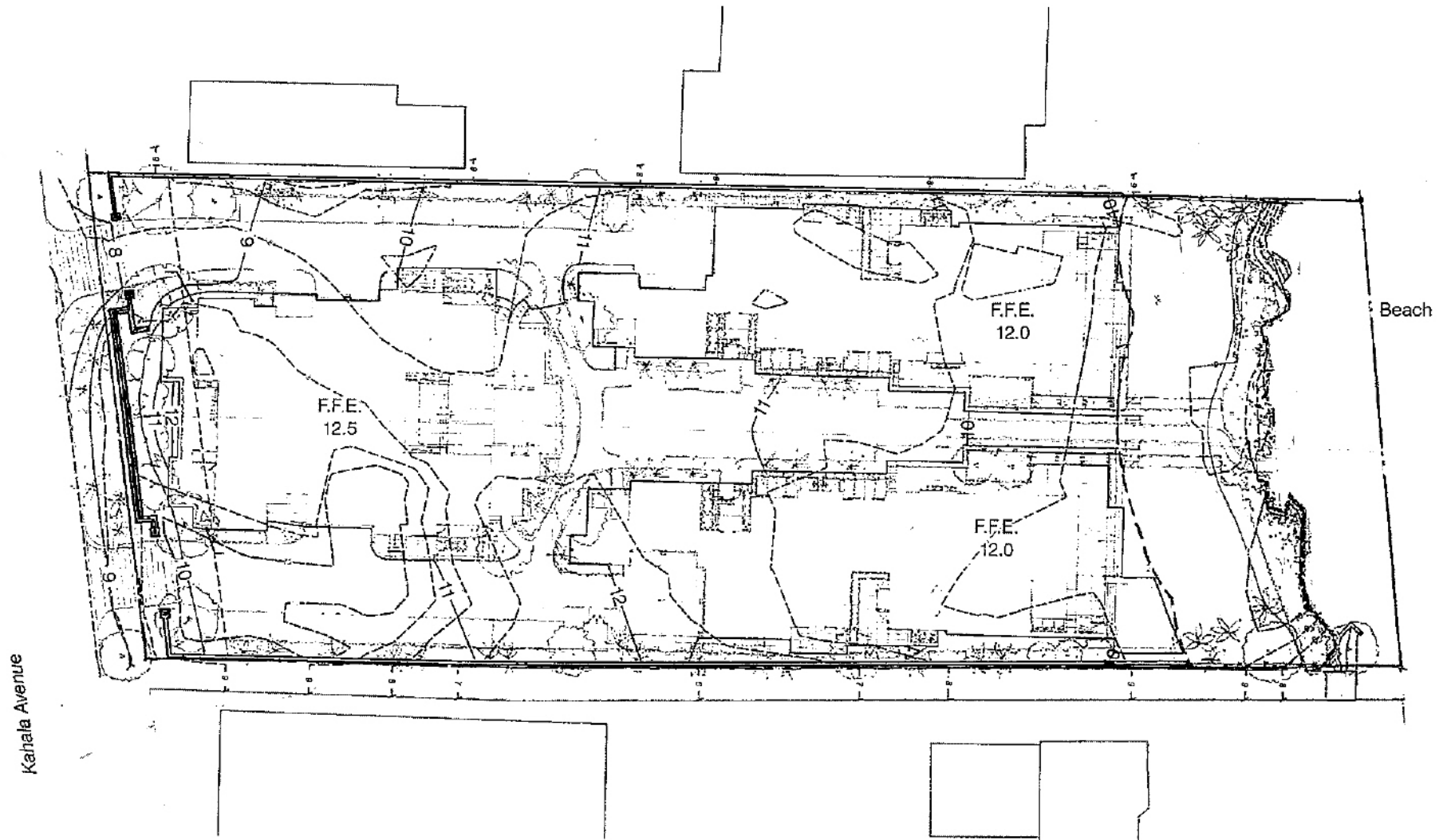
File No. 2016/SMA-22



0 20 40  
1" = 20' at full size (11 x 17")

## Site Sections

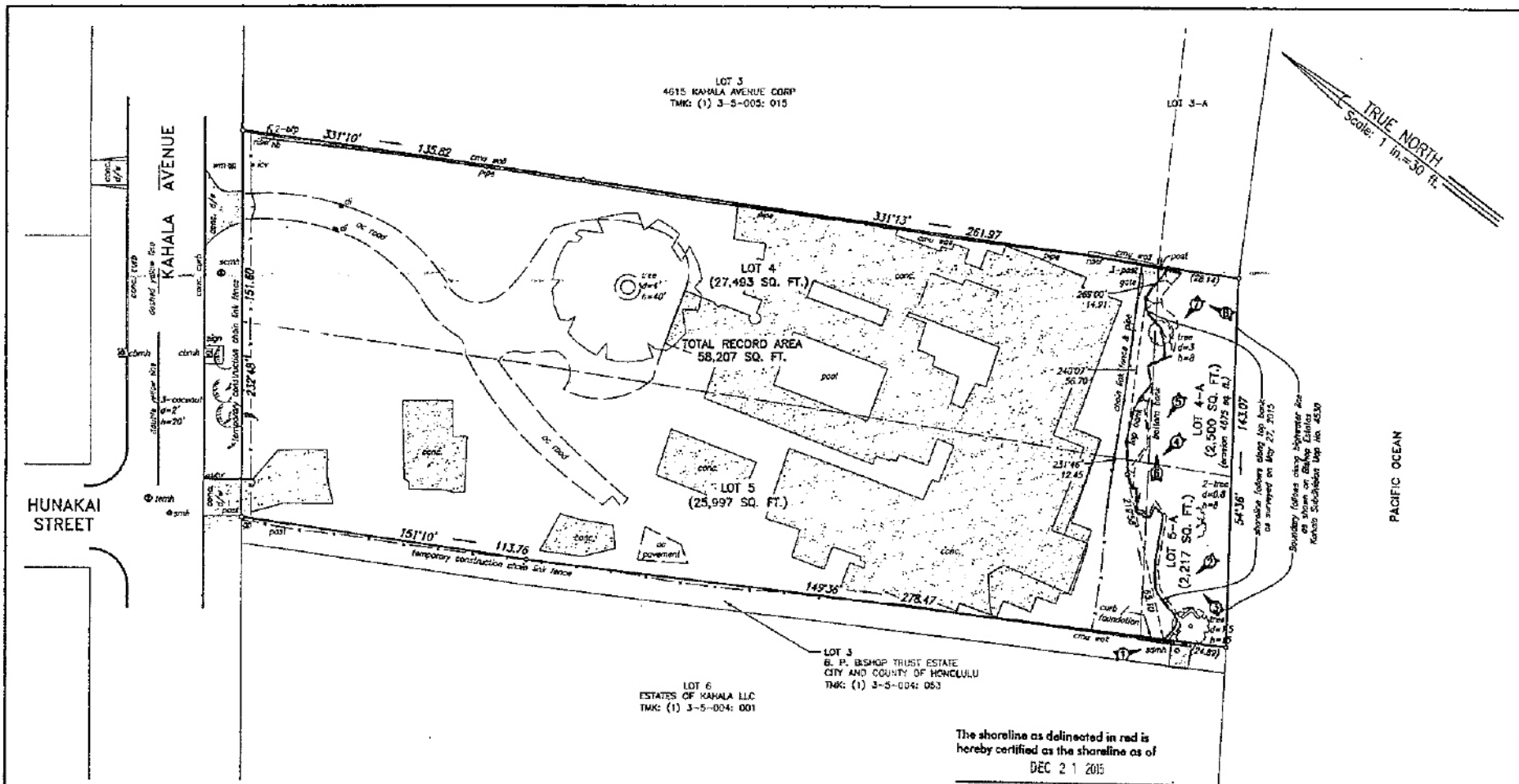
Exhibit B-8  
File No. 2016/SMA-22



# Grading Concept Plan

Exhibit B-9  
File No. 2016/SMA-22





The shoreline as delineated in red is  
hereby certified as the shoreline as of  
DEC 21 2015

*N. M. McQuinn*  
Chairperson, Board of Land and Natural Resources  
MNR

**SHORELINE CERTIFICATION MAP**  
OF LOTS 4, 4-A, 5 AND 5-A  
OF THE KAHALA SUBDIVISION  
BEING PORTION OF ROYAL PATENT T121,  
LAND COMMISSION AWARD 220, AFANA 2 TO KALEIHEANA  
SITUATED IN KAHALA, HONOLULU, OAHU, HAWAII  
TAX MAP KEY: (1) 3-5-005: 016

SITE ADDRESS: 4507 KAHALA AVENUE  
HONOLULU, HAWAII 96816  
OWNER: 4507 KAHALA LLC

Exhibit B-10  
File No. 2016/SMA-22



AUSTIN, TSUTSUMI, & ASSOCIATES INC.  
501 SUMNER STREET, SUITE 521  
HONOLULU, HI 96817, (808) 833-3616

THIS WORK WAS PREPARED BY ME  
OR UNDER MY SUPERVISION.

*Erik S. Kaneshiro*  
ERIK S. KANESHIRO  
LICENSED PROFESSIONAL LAND SURVEYOR  
CERTIFICATE No. 9826

**NOTES**

1. Azimuths shown on this map are referred to Government Survey Triangulation Station "LEAHUA".
2. Names of adjoining property owners were taken from Real Property Tax Records.
3. Shoreline certification is for building setback purposes.  
—(X) Denotes photo number and direction.
4. Map is based on a field survey on May 27, 2015

TMK: (1) 3-5-005: 016

\\2015\15-040\SURVEY\DWG\4507 KAHALA AVE SHORELINE CERT.dwg  
JOB NO.: 15-040

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.  
ENGINEERS, SURVEYORS • HONOLULU, HAWAII

JUNE 29, 2015  
15" X 21" = 2.19 SQ. FT.

1 DEPARTMENT OF PLANNING AND PERMITTING

2 CITY AND COUNTY OF HONOLULU

3 STATE OF HAWAII

4  
5 IN THE MATTER OF THE )  
6 APPLICATION OF ) FILE NO. 2016/SMA-22  
7 5607 KAHALA LLC )  
8 \_\_\_\_\_ )

9  
10 TRANSCRIPT OF PROCEEDINGS

11  
12  
13 The above-entitled matter came on for hearing at the Kahala  
14 Community Park, 4495 Pahoehoe Avenue, Honolulu, Hawaii on  
15 Wednesday, August 3, 2016, commencing at 10:33 a.m.,  
16 pursuant to Notice.

17  
18  
19  
20  
21 BEFORE: ELIZABETH KRUEGER, Hearings Officer  
22 MALYNNE SIMEON, Staff Planner  
23  
24  
25

## P R O C E E D I N G S

HEARINGS OFFICER KRUEGER: Good morning everyone. My name is Elizabeth Krueger and I'm the Hearings Officer for today's matter. It is 10:33 a.m. and we're at the Kahala Community Park building.

Today we are conducting a public hearing in accordance with Revised Ordinances of Honolulu, Chapter 25, related to the Special Management Area or SMA; and Hawaii Revised Statutes, Chapter 205A, related to coastal zone management.

The purpose of today's public hearing is to hear testimony on an application for an SMA Major Use Permit, File No. 2016/SMA-22. The request is to allow the construction of three new two-story, two-family dwelling units, landscaping, swimming pools and guest parking areas within the SMA.

Pursuant to Chapter 25 of the Revised Ordinances of Honolulu, all development in the SMA shall be subject to reasonable terms and conditions to ensure that, one, adequate access is provided and properly located to publicly owned or used beaches, recreation areas and natural reserves. Two, that provisions are made for solid and liquid waste treatment, disposition and management; and, three, that alterations to land forms and vegetation and construction of structures minimizes adverse effects to SMA

1 resources and cause minimal potential danger relevant to  
2 natural disasters.

3 Also, pursuant to Chapter 25 of the Revised  
4 Ordinances of Honolulu, no development in the SMA shall be  
5 approved unless it is found that it will not have a  
6 substantial adverse environmental or ecological effect.  
7 Development must be consistent with the Coastal Zone  
8 Management objectives, the General Plan and Development  
9 Plans and zoning.

10 Lastly, the City Council shall seek to minimize,  
11 where reasonable, altering any natural shoreline, any  
12 development which would reduce the size of any beach or  
13 public recreation area, any development which would reduce  
14 or risk public access to shoreline resources, any  
15 development which would substantially interfere with the  
16 line of sight toward the sea from the state highway, and any  
17 development which would adversely affect water quality,  
18 fishing grounds, wildlife habitats or agricultural uses.

19 Now, to discuss exactly what's happening in today's  
20 public hearing, no decision is being made here today. The  
21 purpose of this public hearing is to take testimony from the  
22 public so that you can have input into the director's report  
23 and recommendation as well as the City Council's decision  
24 when they receive it. You will have an opportunity to  
25 continue to provide testimony when the application goes to

1 City Council for the actual decision making. Once we close  
2 the public hearing, the department will have 20 working days  
3 to transmit its report and recommendation to the City  
4 Council.

5 All testimony received today is going to be part of  
6 the record. It will be reflected in our report and attached  
7 to our report and recommendation along with a full written  
8 transcript of today's hearing so that the City Council can  
9 consider what was heard today.

10 If you have further comments following the close of  
11 today's hearing, you can still submit them directly to the  
12 City Council. If you'd like to submit your written comments  
13 to our department, the Department of Planning and  
14 Permitting, please submit them by Friday, August 12, 2016.  
15 You're also encouraged to contact the City Clerk if you want  
16 to attend the hearings held by the City Council.

17 This is the procedure for today's hearing: Malynne  
18 Simeon, the staff planner, will present the basic facts  
19 behind the request. Then the applicant will present the  
20 project in greater detail. After that we will take public  
21 testimony. At the end of the testimony period, staff will  
22 have an opportunity to ask questions about the proposal --  
23 that's DPP staff -- and the applicant will have an  
24 opportunity to address any comments or concerns they have  
25 heard today. Just to specify, the public testimony period

1 is the point in time when we collect your public testimony.  
2 After the staff asks additional questions and the agent  
3 answers them, the agent can take that opportunity to address  
4 the things that he has heard or concerns that you have  
5 brought up, but that is not a discussion period or a  
6 question-and-answer period. So that's why we specify that  
7 additional testimony, written or e-mailed, to either the DPP  
8 or the City Council is the mechanism by which you should  
9 continue to voice your concerns. So, again, at the close of  
10 that, we'll close the public hearing. It won't be a  
11 discussion period because this is a public hearing as  
12 opposed to a community meeting.

13 Also, I request that because there are so many  
14 people here, when you come up to testify, please state your  
15 name for the record first. Because all of this will be  
16 transcribed and transmitted to City Council as a written  
17 document, it's highly important that we know who's talking.  
18 So please don't call out while someone else is talking  
19 because the recorder won't pick it up and we won't know who  
20 is speaking. So that's my request of you today and Malynne  
21 will now present the facts of the project.

22 Right now we only have nine people signed up to  
23 testify. Generally we ask that people limit their comments  
24 to about three minutes. I don't anticipate that with nine  
25 people we would have too much of a problem; but, again, I

1 request that you make your comments succinct. We're  
2 reviewing for the Special Management Area, being coastal  
3 zone management, so please make your comments --  
4 specifically emphasize how your comment addresses that type  
5 of concern. Hopefully we won't run into any time problems.

6 Malynne, can you please present the project?

7 MS. SIMEON: Good morning. My name is Malynne  
8 Simeon. I'm the staff planner reviewing the permit.

9 The applicant is seeking a SMA use permit which is  
10 needed to allow the construction of three new two-story,  
11 two-family dwelling units, swimming pools and guest parking  
12 areas within the SMA; also fence, gate and steps within the  
13 40-foot shoreline setback.

14 The 1.3-acre lot is zoned R-7.5. The proposal  
15 complies with the development standards for the R-7.5  
16 Residential District. The dwellings do not exceed the  
17 maximum height limit of 25 feet and does not encroach into  
18 the ten-foot front yard setback and the five-foot required  
19 side and rear yard setbacks.

20 Also, the 7,500-square-foot requirement would need  
21 to be provided for one single-family dwelling unit or 14,000  
22 feet for a two-family dwelling unit in the R-7.5. So since  
23 this property is 1.3 acres in size, seven single-family  
24 dwelling units would be allowed or three two-family dwelling  
25 units would be allowed.



1           The applicant is proposing three two-family  
2 dwelling units which is allowed in the R-7.5 Residential  
3 District. Each of the proposed dwelling units will have a  
4 floor area of approximately nine to ten thousand square  
5 feet. They're considered or they've called it stacked flats  
6 where one of the unit is on the ground floor and the other  
7 is on the second floor.

8           The site is currently vacant with two existing  
9 driveways. There is an eight-foot-wide road widening  
10 setback along Kahala Avenue. The estimated cost of the  
11 proposed development will be between 40 to 45 million  
12 dollars.

13           HEARINGS OFFICER: Can the applicant now present  
14 the project, please? And please state your name for the  
15 record.

16           MR. MCGINNIS: Aloha. My name is Craig McGinnis.  
17 I'm the development manager for the Kahala properties and  
18 for the 4607 Kahala LLC.

19           Just a little background on this development.  
20 About three years ago we purchased -- Estates of Kahala  
21 acquired 30 properties from Mr. Kawamoto. First thing we  
22 did when we purchased those properties, we cut the grass, we  
23 cleaned the rocks out of the swimming pools and we took  
24 other actions for the health and safety of the neighborhood.  
25 Then we took down all the statutes and we tore down the

1 abandoned party houses and we helped local families find  
2 suitable rental housing in other areas of Oahu.

3 We then placed those vacant lots on the market for  
4 sale and we started to renovate some of the other  
5 properties. So to date 21 of the 30 properties have been  
6 sold. They were sold to a broad spectrum of individuals.  
7 One Kahala resident wanted to expand his estate so he bought  
8 another lot. Another resident wanted to provide housing for  
9 his sons and daughters, bought a house next to his current  
10 property. Other lots were bought by local residents or  
11 developers wishing to build homes. And to date, six homes  
12 have been built or are in construction in Kahala on those  
13 lots. Some lots were bought by Oahu residents who wanted to  
14 move into Kahala to raise their families and some who came  
15 to Kahala to enjoy their retirement.

16 We have nine parcels remaining. There are four  
17 homes and five vacant lots. They're available and have been  
18 available for purchase. We continue to maintain those  
19 homes, make improvements and provide security not only for  
20 those homes but for the neighborhood in general.

21 We'd like to sell those remaining properties but  
22 all development options do remain available so that we can  
23 turn those vacant lots into homes where people can come and  
24 live in Kahala.

25 So today we're talking about one large vacant lot

1 at the end of Hunakai Street, 4607 Kahala Avenue. The lot,  
2 as you heard, is over 1.3 acres. It's a very large  
3 oceanfront property. It used to have two homes that were  
4 developed on that lot. You also heard the property is zoned  
5 R-7.5 Residential and that is consistent with the  
6 surrounding properties. This zoning allows for one  
7 dwelling. That means with the allowable lot size of 7,500  
8 square feet -- that is, you heard up to seven different  
9 homes, seven individual homes can be built on that lot.

10 We closely looked at the property's deeds,  
11 declarations and chain of title to ensure that this lot  
12 doesn't have any restrictions on the number of homes. The  
13 4607 property, like many of the makai lots, the makai side  
14 of Kahala Avenue, is subject to certain restrictions that  
15 are spelled out in the 1986 declaration, and none of these  
16 restrictions limit this lot to the development of one  
17 single-family home. In contrast, there is a 1982  
18 declaration which addresses homes on the mauka side of  
19 Kahala Avenue. That declaration does limit the lots on that  
20 side of the road to one single-family dwelling. So the same  
21 landowner, KS, at the time, in the early '80's issued two  
22 distinctive sets of covenants; one restricting one side of  
23 the street to a single-family dwelling and one not placing  
24 that same restriction on those lots.

25 We studied many development scenarios for this lot.

1 The max build-out allows 50 percent lot coverage. And as  
2 you've heard, it allows for seven distinct homes. We felt  
3 that that was just too heavy, too dense and too much  
4 development for that lot even though it is 1.3 acres. So we  
5 looked at a more sensitive type of development plan and I  
6 would ask Jeff Overton from Group 70 to come and give you  
7 more of those details on that detailed development plan.  
8 Thank you.

9 MR. OVERTON: Thank you, Craig.

10 I'm Jeff Overton. I'm a principal planner with  
11 Group 70. We're planners, civil engineers and architects.  
12 And I'll provide a little more information on the project.  
13 As was referenced by Malynne in her presentation -- here's  
14 Kahala Avenue. There are two existing driveways to the  
15 property that will be retained and reused in the future  
16 project here. Setbacks from Kahala Avenue are -- the  
17 building is 25 to 30 feet set back in this area here and  
18 it's stepped so that the second floor is really about 60  
19 feet back. So there's a generous setback along this  
20 stretch. We'll also have a privacy wall along the front and  
21 very lush landscaping that we'll show later here.

22 We are definitely respecting the 40-foot setback  
23 from the certified shoreline so we've have this shoreline  
24 surveyed in here. It's quite a nice beach, one of the  
25 nicest beaches in the Kahala shoreline area. And there will

1 be no structures in the shoreline here. We're not going for  
2 any kind of a shoreline variance that would be required for  
3 anything. There's no seawall or revetment plan at this  
4 location so it's a natural beach and that will continue to  
5 be that way.

6 So we have to respect the 40-foot setback for the  
7 improvements along the front here. And you can see the way  
8 the plan works as was described earlier. We're talking  
9 about attached single-family dwellings here. So we have one  
10 residential building planned near Kahala Avenue and then two  
11 on the makai portion of the lot here. And this is a stacked  
12 flats configuration so one unit upstairs, one unit  
13 downstairs so that there's six single-family homes here.  
14 But it's essentially built as if it's three homes here and  
15 there's this kind of lighter footprint and the sensitivity  
16 to the open space and the other aspects of the property in  
17 this plan. You can see that we've got generous landscaping  
18 along the perimeter in here, lots of green space through  
19 here connecting so that the light and the airiness of the  
20 property is going to be in keeping with what we see today in  
21 the Kahala neighborhood along Kahala Avenue on the makai  
22 side.

23 These plans are consistent with the city's zoning  
24 allowances and have been reviewed by DPP. And the  
25 infrastructure, the roadway access and the water and the

1 sewer connections are all available here at a level that's  
2 adequate to serve the project as planned here.

3 Let's move over here to the street perspective.  
4 So, again, we're at the makai end of Hunakai Street and the  
5 intersection with Kahala Ave. And this is the beach access  
6 here. There's no changes at all planned to the beach  
7 access. There's no affect on that. The property is  
8 separate from that. So here's where the beach access exists  
9 today and then a future perspective image of the built  
10 residential structures. You can see setback from the  
11 roadway, the bus stop still in place in here, the two  
12 driveways, a privacy wall with gates on the two driveways  
13 and the homes. The first floor being 25 to 30 feet setback  
14 from the edge and then the second floor close to 60 feet.

15 So this really works nicely from a design  
16 perspective in that it respects the qualities that exist  
17 today along Kahala Avenue with the lush landscaping, tall  
18 canopy trees in there. We'll have a variety of ground cover  
19 and low and medium-high different palms and Hawaiian plants  
20 that are put in here. You can see the colors and the  
21 materials that are being used are very complimentary to the  
22 area. So we're proud of this project. We think it's going  
23 to be a beautiful addition through here. The bus stop and  
24 driveways, as I mentioned, are still in place here.

25 Now, from the beach side -- again, this is one of

1 the nicest beaches in Kahala. The beach access comes down  
2 through here and here's this broad beach area and the  
3 property edging here. So you can see there's no structures  
4 planned along the shoreline in here and you can see naupaka  
5 that grows along the edge and other plants in here. So  
6 basically keeping this natural edge that the community and  
7 public enjoys here. And then you can see the makai edge of  
8 the two structures, residential structures in here. Again,  
9 kind of a staggered configuration using materials and colors  
10 that are very complimentary to this setting and this  
11 important beachfront area. And so they're definitely big  
12 homes but there's many big homes along this stretch in here.  
13 So we're just trying to be in keeping with the qualities,  
14 the character, the values that are in place in this stretch  
15 of Kahala Avenue.

16 As part of the SMA process, Special Management Area  
17 Use Permit process, we had to prepare an environmental  
18 assessment document. So this is a copy of the final  
19 environmental assessment document and this goes through and  
20 reviews all the environmental factors that come into play  
21 when you're building a home that's 7,500 square feet or  
22 larger in the SMA. You have to prepare the EA and go  
23 through this SMA process. That rule was changed about four  
24 or five years ago. So that process takes about an extra  
25 year for a project like this. It involves a lot more



1 community input, review. When this document is circulated  
2 in draft, the public and the agencies all commented. We  
3 went out to the neighborhood board three or four times to  
4 present and have some discussion and went through that. So  
5 the final EA was accepted by the Department of Planning and  
6 Permitting with a finding of no significant impact back on  
7 March 24th of this year. And that then allowed the SMA  
8 process, review process.

9 So I'm going to try to wrap up here quickly. I'd  
10 just like to address the compliance of the project with the  
11 Special Management Area objectives and policies which were  
12 mentioned by Elizabeth earlier.

13 The project is consistent with both the HRS 205A,  
14 the Coastal Zone Management Rules as well as the Revised  
15 Ordinances of Honolulu, 25-32. And so these would be  
16 aspects such as recreational resources where we have no  
17 impact to the beach or the beach access and no structures in  
18 the 40-foot setback. For historical resources, there was an  
19 archeological survey and cultural impact assessment and  
20 there were no significant findings there though that  
21 process. Scenic and open space resources where the  
22 residences are comparable with what homes exist in this  
23 Kahala Avenue's makai side. The building heights respect  
24 the 25-foot limit and there's no structures in the setback.  
25 So there are no impacts to designated coastal views in this

1 area.

2 In terms of the coastal ecosystem, there's no  
3 threatened or endangered species on the property. There's  
4 no effect from the project on coastal water quality because  
5 we have to work with the city and state standards on how the  
6 site development occurs. In terms of economic use, this  
7 site is designated for residential use and the redevelopment  
8 is consistent with the General Plan, the city's Development  
9 Plan as well as the zoning. We need to comply with the  
10 flood hazard area ordinances so there are rules that we  
11 comply with through this. In terms of managing development,  
12 the EA is part of that process in that we talked with the  
13 neighborhood board and get the comments that's under the  
14 managing development objective and public participation as  
15 well, getting the review in there. This hearing today and  
16 your input is -- we're very glad you came to this meeting  
17 today and we want to hear your comments and get them on the  
18 record. And then there will be City Council hearings as  
19 well. So there's many steps in this SMA process to get your  
20 input.

21 In terms of beach protection, no seawalls or  
22 revetments are planned here, no building in the 40-foot  
23 setback. And marine resources, we have to use best  
24 management practices in the site construction to avoid any  
25 impacts to water quality or marine resources. We do have

1 the sewer system in place so that solid as well as liquid  
2 waste are -- the systems have adequate capacity to handle  
3 the project. And in terms of alteration of land forms, the  
4 site work, too, have to follow very strict measures to avoid  
5 adverse water quality impacts.

6 So in conclusion, with all these aspects  
7 considered, the project is consistent with the Special  
8 Management Area guidelines and principles. And we thank you  
9 today for coming to testify.

10 We have written testimony that we'd like to submit,  
11 a number of letters in support of the request. And so we'll  
12 pass these over. Some of these have already been filed, I  
13 think, online but we'll -- I think there's 17 letters there  
14 right now. And thank you. Sorry, I ran a little long.

15 HEARINGS OFFICER: We will now begin the public  
16 testimony. Each testifier will have one opportunity to  
17 speak.

18 Our first registered speaker is Sylvia Himeda  
19 followed by Donald Eovino.

20 MS. HIMEDA: My name is Sylvia Himeda. I'm a  
21 long-time resident of the Kahala area. I'm here this  
22 morning to ask DPP to vote no to Group 70's SMA-22  
23 application permit.

24 I'm in favor of single-family dwellings. Thank  
25 you.

1           HEARINGS OFFICER: Next is Donald Eovino followed  
2 by William Saunders.

3           MR. EOVIINO: I'm Donnie Eovino. I'm a retired  
4 school teacher, been here 44 years. I got my emeritus  
5 status last year of having my license for 44 years. I'm a  
6 developer. I developed ten homes on Kahala Avenue. I  
7 developed the home right next door to this -- two doors down  
8 from this.

9           I've been a broker and I had some simple rules that  
10 I follow and the people in Kahala and the brokers that -- we  
11 all know that this property has always been zoned for one  
12 house. I have the deed for this property. I have the deed  
13 when I developed the property. The deed says one house per  
14 lot. What is it about A&B that doesn't understand? I'm  
15 trying to get my hands around this.

16           This property was bought -- was owned by  
17 Kamehameha. It was then transferred to Kalakaua. It was  
18 owned by Charlie Pietch and Eisenberg. They wanted big  
19 estates. This has been big estates for 40 years. There has  
20 been no additional density development in this property in  
21 40 years. There's some other pieces that have more than one  
22 house per lot but they were grandfathered in.

23           What A&B is doing is trying to subvert the  
24 covenant that have been established that limit the  
25 property to one house per lot. Sure they got all the

1 zoning. Sure they got all the approval from the City  
2 Council. They're avoiding the rule that the covenants trump  
3 the zoning and the building permits. And why has nobody in  
4 40 years built more than this? They are simply trying to  
5 make more profit than what they did because they're  
6 retaining profit -- is what's left from the properties they  
7 bought from Kawamoto at the expense of denigrating the  
8 neighborhood.

9 A&B will do this properly. My hat goes off to Jeff  
10 because they have been sensitive to what they're trying to  
11 do. But it is not approved. Nobody's ever done it. It  
12 shouldn't be allowed. If this is done, what it'll do is --  
13 there's only 100 lots on Kahala Avenue. I developed a piece  
14 -- I developed this piece right here. This is the sandiest  
15 beach. It's the best part of Kahala Avenue. There's only  
16 50 of them. If they get through with this and allow the  
17 covenants to be avoided -- the problem is that the covenants  
18 were in leasehold.

19 In 1960 when Bishop offered 55-year leases -- and  
20 when 30 years went by and the lenders wouldn't allow any  
21 more, there was a rule in the '80's that they had to condemn  
22 and buy the fee. When they offered the fee, the deeds did  
23 not specifically say one house per lot. The leasehold deed  
24 did. I learned and everybody in Kahala that's a broker  
25 learned covenants run with the land.

1           Somehow they're taking a loophole and saying the  
2 covenant does not apply anymore. My experience, my  
3 knowledge is covenants run with the land. The fact that you  
4 had a covenant in leasehold does not diminish it and  
5 extinguish it when you turn it to fee simple. The mere fact  
6 that it didn't say you could only build one house on a lot  
7 does not diminish -- extinguish that covenant. That's my  
8 position.

9           And that's a big article that we all know. That's  
10 why nobody's ever done it before. If they get away with  
11 this -- and they'll be very nice and it'll be very nicely  
12 done -- why would not anybody else do it? Of these 50 lots  
13 that are not all fully developed, why would anybody not  
14 develop it to it's maximum capacity? They'd be stupid. So  
15 then there will be a rush for profit, for people that are  
16 developers to go out and the owners and maximize the size of  
17 the land. The taxes will go up. The density will increase.  
18 Those big estates that are there now will diminish and  
19 they'll be chopped up like Diamond Head, Lanikai and Kahala  
20 and the anchor of the largest estates that affect all of the  
21 value of Kahala that Kamehameha and Kalakaua and Bishop and  
22 Charlie Pietch and all that wanted to do in the next ten,  
23 20, 30, 50 years will change the entire character of Kahala.  
24 Why not? And why would anybody not have to -- go on with  
25 the covenants that they had there. And they'd be foolish if

1 they didn't and it's going to change the character.

2 Now, I'll conclude by saying Kamehameha, Kalakaua  
3 and Bishop Estate would roll over in their graves to see  
4 what A&B is trying to do now with their land that was  
5 supposed to be big estates, surfable land to anchor the  
6 properties in Kahala.

7 Now I conclude by saying A&B, take your profits.  
8 You're entitled to it. Build the one house per lot that  
9 you're supposed to do. You still have two lots. You can do  
10 the two houses on it. Don't try to get the maximum profit  
11 because you're basically sacrificing -- you're putting  
12 neighbor against neighbor, requiring one neighbor to sue  
13 another because there is no established successor  
14 association but there is the rule that neighbor can sue  
15 neighbor to enforce the covenants. And that's not what it  
16 should be. That is not in the intent of Kahala Avenue and  
17 A&B should be above this and not take this position that  
18 they're taking. Thank you.

19 HEARINGS OFFICER: Next we have William Saunders  
20 followed by Shirleyanne Chew.

21 MR. SAUNDERS: Thank you. I have some exhibits  
22 which I'd like to present to the panel here. The first is  
23 the leasehold deed that Mr. Eovino referred to -- excuse me,  
24 the leasehold. There's highlighting on these documents for  
25 your convenience. They don't appear in the original. I



1 apologize that these are microfilm copies from the bureau  
2 and, therefore, are old and hard to read.

3 The next exhibit is the deed itself whereby Bishop  
4 Estate transferred the property to the then existing  
5 purchaser, lease to fee, 1988. Again, this is highlighted  
6 for your convenience, a little more readable.

7 I'd like to first draw your attention to the lease  
8 language. I actually represent the Friends of Kahala in a  
9 lawsuit challenging the environmental assessment. But I'm  
10 really here testifying on my own behalf. I've lived in  
11 Kahala for over 50 years. I played little league on this  
12 field when I was eight years old. I went to Boy Scouts at  
13 Waikeola Church up the hill, went to summer fun at Kahala.  
14 My father was born on Kilauea Avenue in a house in 1921. I  
15 have a lot of connection to this area. I still live in the  
16 family home that my parents bought. I couldn't afford that  
17 today partly because of the speculation that's occurred in  
18 this neighborhood over the last 30 years. And speculation  
19 is really my theme here.

20 Let's get back to the lease. The lease says  
21 specifically that -- it contains this covenant. Residential  
22 use. Lessee will use and allow the use of said premises  
23 only for residential purposes and will not at any time  
24 during said term place, maintain or allow on said premises  
25 more than one single-family dwelling exclusive of out-

1 buildings, nor keep or allow livestock, poultry or rabbits.  
2 Well, this was back when Kahala was first developed. We did  
3 have some farms in this area.

4 So that lease actually runs through 2019. Now, in  
5 the normal course of events, when you have a lease and a  
6 subsequent deed, the lease, quote, merges into the deed and  
7 the deed overrides the lease. However, in this case, the  
8 lease specifically incorporates -- the deed specifically  
9 incorporates the lease and makes the conveyance of the lease  
10 to fee subject to the lease and, therefore, subject to the  
11 covenant I just read you.

12 Here's the language in the deed. If you've ever  
13 looked at a real property deed, it says we give you all this  
14 stuff subject, however, to these things. And they'll  
15 include reservations for metallic mines and rights of way  
16 and reserving certain things to the crown or the territory  
17 or the state depending when you bought your property.

18 This particular deed says subject to Lease No. 15  
19 comma 051 dated April 1, 1964 recorded in the Bureau of  
20 Conveyances of the State of Hawaii in Liber 5412, Page 195  
21 made by and between the trustees of the will and then  
22 current lessee.

23 The deed language incorporating and making it  
24 subject to the lease is after the declaration of protective  
25 provisions in 1987 or '86 that these gentlemen referred to.

1 So despite the fact that all the non-beachfront lots have a  
2 separate covenant from '82 saying single-family dwelling  
3 only, at that time the leases on the other side of the road,  
4 the beachfront leases, already contained that covenant. And  
5 that covenant survived the lease-to-fee conversions.

6 And so that particular deed still is burdened in  
7 the chain of title with this covenant. This is something  
8 that was never mentioned or brought up in any way by A&B or  
9 4607 or Mr. Overton. He also didn't mention the 1982  
10 covenant. Covenants are mentioned in two places in this  
11 EIS. One, when they first say, oh, there's a covenant but  
12 it doesn't apply. And second in response to Ms. Lucinda  
13 Piles' letter questioning the covenant issue.

14 Now, as I explained, they're going to have some  
15 arguments and they've made them in the lawsuit that, you  
16 know, this all doesn't matter because the lease to fee wipes  
17 everything out. And we don't believe it does but really  
18 what's more important is the character of this neighborhood  
19 and what's going to happen if this project is allowed.

20 And specifically addressing the SMA criteria. I  
21 want to highlight two areas where this project is totally  
22 inconsistent. The first is, the provision that says no  
23 substantial adverse environmental effect on the environment.  
24 Now, the Hawaii Supreme Court has consistently held that the  
25 environment includes the social environment, the cultural

1 environment; and that means the Kahala neighborhood in  
2 general and the character of the neighborhood.

3 And to the extent that this particular project will  
4 impact the neighborhood, it will impact it negatively,  
5 significantly. It'll change the character of what was once  
6 a single-family -- all single-family neighborhood. And we  
7 believe that that should continue to be the nature of this  
8 neighborhood. The changing of it is not a good idea.

9 Second of all, the project must be consistent with  
10 the general plan; and I have to read it off my phone. I'm  
11 sorry, I didn't bring a copy. But the general plan says  
12 this: Housing. This is one of the criteria. These are the  
13 statements of what the general plan requires, the purposes.  
14 Housing. Obtaining decent, reasonably-priced housing in  
15 safe attractive neighborhoods has been a perennial problem  
16 for the residents of Oahu and is a primary concern of the  
17 general plan. The objectives and policies for housing seek  
18 to provide a choice of living environments, affordable  
19 housing and a reduction of inflationary speculation.

20 One of the stated objectives of the city DPP Oahu  
21 General Plan -- this is the DPP's own plan -- is to reduce  
22 speculation for land and housing.

23 Now, there are 20 properties makai of Kahala Avenue  
24 which are vacant. How did that happen? That happened  
25 because of speculation. It happened because in the late

1 80's and early 90's a lot of foreign buyers came in and  
2 purchased all these homes -- and I don't need to mention the  
3 K word. But we know who A&B bought this from. Mr. K was a  
4 speculator and A&B is a speculator riding on his shoulders.

5 HEARINGS OFFICER: Mr. Saunders, could you please  
6 try to wrap up your statements, please?

7 MR. SAUNDERS: All right. I will.

8 I want to point out the negative impacts that this  
9 will have not only on the Kahala neighborhood but also in  
10 the character of other beachfront neighborhoods. If you  
11 allow this -- remember, this is the Department of Planning  
12 and Permitting, not just the department of permitting. So  
13 the obligation is to plan and look ahead and see what's  
14 going to happen if we do this.

15 First of all, if this project is allowed, every  
16 other person owning a lot in excess of, you know, the  
17 minimum is going to try to do a condo conversion just like  
18 this all along Kahala Avenue. If this is successful, any  
19 person with a beachfront lot that is larger than the R-7.5  
20 or whatever and has appropriate zoning -- Kalaniana'ole,  
21 Portlock. Waimanalo has big lots. Kailua has big lots.  
22 Lanikai has big lots. Kahaluu has big lots. Kawailoa has  
23 big lots. All around the island there are large oceanfront  
24 lots that are kamaaina style, big homes -- not all estates  
25 for rich people -- as well all the way out to Mokuleia.

1 Around the corner, even Waianae side. Ewa Beach has big  
2 lots on the beach.

3 So what you're doing is you're setting a precedent  
4 on the entire island to allow maximum condo conversion  
5 development on beachfront lots. Now, that is clearly going  
6 to drive up the price of every beachfront lot on Oahu. It's  
7 also going to drive up the price of nearby lots, mauka side  
8 of Kahala Avenue.

9 We saw the effect of the foreign investment bubble  
10 in the '89, '90. It didn't just affect beachfront lots. It  
11 affected everybody in Kahala. Our property taxes went  
12 through the roof, our property values. But, what, you sell  
13 your house, where are you going to live? Anyway, I'd like  
14 to bring my family up here. I've raised one son here. I've  
15 got two more kids still in school, elementary -- I mean  
16 intermediate and high school. I want them to be able to  
17 stay in my house. But if my property taxes go up, I'm out  
18 of luck. A lot of people here are retired, fixed incomes.  
19 Same thing for them.

20 Anyway, in closing I would like to say that all the  
21 remaining lots are corporate owners. They're not people who  
22 want to build and live in Kahala. They're speculators and  
23 the impact of approving this project would be to drive the  
24 prices up and increase speculation in direct contravention  
25 to the Oahu General Plan. So thank you. Please deny this

1 project.

2 HEARINGS OFFICER: Next we have Shirleyanne Chew  
3 followed by Claire Doi.

4 MS. CHEW: I'm Shirleyann Chew and I've lived in  
5 Kahala for almost 40 years and I'm retired. So I'm very  
6 concerned about the impact of multi-family dwellings and  
7 increased density in the Kahala area driving up taxes and  
8 property values.

9 I was very happy when A&B took over Kawamoto's  
10 blight because I was living down the street from the  
11 homeless who had, like, nine cars in front of their house  
12 and feeling insecure and getting two big dogs to improve my  
13 security and my home.

14 So I was happy when A&B took it over and let  
15 single-family homeowners buy into these nice homes and  
16 renovate them. I was hoping that they would continue to do  
17 the same thing on all their properties. And what I'm  
18 concerned about -- what used to be two homes, they want to  
19 increase the density to six. And if this continues, it will  
20 change the whole environment here in Kahala. We have a  
21 couple places that are over 12,000 square feet. If they  
22 assemble two properties adjacent to each other that are  
23 similar, they may be able to build three homes on two  
24 properties in the neighborhood. So if that kind of trend  
25 happens, this neighborhood will change completely.

1 I am experiencing what it's like to live next to a  
2 multi-family dwelling because my neighbor has three families  
3 living in the same house. So they have six cars in front of  
4 there and they block my entrance of how to get in and out of  
5 my house. So increased density is gonna change the  
6 livability of this area. And so, therefore, I want to keep  
7 one house per lot and keep the area as open as possible.  
8 Thank you very much.

9 HEARINGS OFFICER: Next we have Claire, right?

10 MS. DOI: Yes.

11 HEARINGS OFFICER: Claire Doi followed by Tray  
12 Bradley.

13 MS. DOI: Hi, my name is Claire Doi and I'm  
14 actually a fourth generation in this area. So my  
15 grandparents and my great-grandparents grew up here and they  
16 have told me that even -- they lived on the pig farm so it's  
17 Waialae Ranch. And change was imminent even back then. And  
18 when there is change, the thing that -- the basic core of  
19 what you want to think about is your future and what the  
20 land bears.

21 So even back then when change was very, very  
22 imminent -- and what they did emphasize is, okay, will the  
23 land be safe. Will the oceanfront be safe? Will we still  
24 allow our children to play at the beach? And that was  
25 basically what it came down to because there was a lot of



1 these hearings and there was a lot of law changes even back  
2 then in the 50's and 60's if you could look back in the  
3 records. However, what all the people agreed upon is what  
4 will happen to our oceanfront and can our children still  
5 play in that area. And that's all I want to address.

6 And I really feel that A&B has done a lot of  
7 homework and they do have us in mind. And no matter -- I  
8 can see that there are some oppositions but there are also  
9 regular people like myself who we really still want the  
10 beach area and -- whether there's change imminent or not.  
11 And that's all I want to say. Thank you so much.

12 HEARINGS OFFICER: Next is Tray Bradley followed by  
13 Earl Lee.

14 MS. BRADLEY: Good morning, everyone. My name is  
15 Tracy Bradley.

16 HEARINGS OFFICER: I'm sorry, Tracy.

17 MS. BRADLEY: It's all right. I grew up in Kahala  
18 and I raised my kids on Elepaio. I grew up on Aukai. I  
19 enjoyed watching and seeing the changes in Kahala from the  
20 development of the hotel, Kahala Hotel, the Kahala Beach  
21 Apartments to the trend that we've seen in the Kahala  
22 neighborhood.

23 I also appreciate that A&B has come in and made  
24 such a significant impact to the community in a positive  
25 way. I've read the final EA. I don't see any negative

1 impact to our community and I appreciate that they have been  
2 responsible, good neighbors. I have submitted written  
3 testimony and I will stand on that. Thank you.

4 HEARINGS OFFICER: Next we have Earl Lee followed  
5 by Rachel Ross.

6 MR. LEE: My name is Earl Lee. It's good to see  
7 all of you folks. I understand there's a lot of emotion  
8 around this issue. I am in support of the project based  
9 upon the information I have that it fits all of the criteria  
10 and fits within the SMA rules and guidelines.

11 I've submitted written testimony. And in the  
12 interest of time, I will stand on that testimony. Thank  
13 you.

14 HEARINGS OFFICER: Next we have Rachel Ross  
15 followed by Patti Baldwin.

16 MS. ROSS: Hi. My name is Rachel Ross. I'm here  
17 in support of the project. I feel like A&B has been a  
18 wonderful neighbor in Kahala. They've made a great change  
19 to the neighborhood. I run the avenue every morning in the  
20 dark and I wave to the security guards and they wave back.  
21 It's been a very positive change for me. And I feel like  
22 they can be trusted to be good neighbors and we can, you  
23 know, believe that they're going to bring something  
24 beautiful to Kahala that's good for everybody.

25 I also kind of believe in the housing ladder theory

1 that every time we create new homes -- and we do know  
2 there's a shortage of homes here -- that we build six more  
3 here that families move up and they move maybe from a ridge  
4 down to the property here. They open up a home there.  
5 Another family moves up and we're slowly feeding more houses  
6 in our community and our people. So I support the project.  
7 Thank you.

8 HEARINGS OFFICER: Next we have Patti Baldwin who  
9 is the last registered testifier. If anyone else would like  
10 to speak, please fill out a pink form for me.

11 MS. BALDWIN: Aloha. I'm Patti Baldwin and I  
12 represent the Dungate family. My mom, we live at 4711. We  
13 live in the original homes that were built on Kahala,  
14 single-wall construction and it's a big house for the  
15 family, the maid's quarters. And if it weren't for the fact  
16 that we have more than one house that she got way back --  
17 because the way it was developed 45 years ago -- she  
18 wouldn't be able to live on this property because of the  
19 taxes.

20 So the other thing I want to point out -- I have a  
21 lot of comments that I'm going to save you from. But this  
22 40-foot beach access on the Fourth of July -- I live on  
23 Beach Access 133-B. On the Fourth of July the tide was so  
24 high that there was no beach anywhere on Kahala. And all  
25 the people that were out for the Fourth of July put their

1 tents up on these empty houses. I feel like very few people  
2 live on the beach side of Kahala. Our beach access is the  
3 only one that is occupied 500 -- however many days there are  
4 in a year. So we're there, year-round, people. And we  
5 still have problems with the homeless. A&B has been awesome  
6 with the rest of the neighborhood. I think they slipped on  
7 this and talked to the developer. So let's keep Kahala  
8 family and so we can afford it. Thank you.

9 HEARINGS OFFICER: So that's the last of the  
10 registered testifiers. If there's no one else -- all right.  
11 Please fill out a pink form. Or actually you're welcome to  
12 speak first and then -- as long as you're willing to fill it  
13 out as soon as that's done. And please state your name for  
14 the record.

15 MS. HARRISON: Hi. My name is Chula Harrison.  
16 I've lived in Kahala for 50 years. My husband and I live on  
17 Aukai Avenue, one block from this. And we have a sweet  
18 little -- old beach house right next door to us. Four years  
19 ago people moved in. We thought they were going to be our  
20 neighbors for a long time. They acted like it. They built  
21 this ginormous house that completely over-shadows our house,  
22 exactly five feet from the wall. What did they do? They  
23 sold it two years later and left.

24 Now, I call that speculation or you can say greed  
25 because they pretended they were our neighbors and were

1 going to be there. We were friends and then they -- what  
2 happens to our taxes? They soared. What did we have to do  
3 to afford to live there? Put our house on the historic  
4 register. That's a lot of trouble but it's saving us money  
5 and we can afford to live there.

6 How long is this going to go on? You can say that  
7 what A&B is doing is sensitive and they are for what they  
8 are. But I still think there's another word for speculation  
9 and investment and I'm sorry but I think it's greed. It's  
10 money. Sorry.

11 HEARINGS OFFICER: Hi. My name is Ann McGee and I  
12 live on Aukai and Hunakai. I'm about a block away from the  
13 proposed project.

14 I am grateful to A&B in many ways because we had a  
15 horrible problem with under-aged drinking right at that  
16 beach and that beach is there sometimes and not there  
17 sometimes. I don't know how it gets to be the best beach in  
18 Kahala because somedays it's not even there and it's eroding  
19 daily it seems. Every time I go down there I don't know  
20 what to expect.

21 But I would like to point out that the two  
22 properties on either side of that beach walk still look like  
23 they had been hit by a bomb. There are still rocks in the  
24 pool. I'm grateful for the security but I'm telling you,  
25 the fences are this high. I can jump over them. There are

1 kids in there constantly. You know, that's why, you know,  
2 part of me is like, wow, looking through the lens of it  
3 could be worse. Kawamoto could get out of jail and come  
4 back and buy 'em. I don't want to look at a project like  
5 that. I want to look at it like what's the best outcome for  
6 the whole neighborhood. How will it serve everybody, not  
7 just A&B. And I think that this serves A&B more than it  
8 serves any of us. And that's why I'm opposed right now.  
9 I'm willing to compromise but I think that six down from  
10 seven-and-a-half residences is not really compromise.  
11 That's kind of like, well, we're going to get our way so  
12 let's just do it, you know.

13 Also, why is this meeting at 10:30 on a Wednesday?  
14 And how did anybody find out about this? I mean I kind of  
15 accidentally found out about this. I think that we would have  
16 much more participation from the neighborhood if people knew  
17 that there was a meeting. Can anybody tell me how that  
18 happened?

19 HEARINGS OFFICER: This isn't a question-and-answer  
20 time.

21 MS. MCGEE: Oh, okay. All right. I just don't  
22 want to miss the next meeting. Thank you. Bye.

23 MS. DALY: Good morning. My name is Elizabeth Daly  
24 and I was born and raised in Kahala. My great-grandparents  
25 bought 4679 Kahala Avenue. My mother was born there in

1 1939. I had my wedding there; beautiful place. I would  
2 wake up in the morning to the sounds of the doves with all  
3 the beautiful ironwood trees. All gone. Mr. Kawamoto  
4 really created a disastrous situation in Waialae-Kahala.

5 It seems to me that we need to focus on not  
6 complaining about what has happened and what has been. We  
7 need to envision what we want going forward. How do we want  
8 Kahala Avenue to look like going forward. The past is over.  
9 It's gone. I'm sorry. I feel your pain. I've lived there.  
10 I've walked the avenue and I understand how you feel about  
11 it. This is not an offensive project. It's really  
12 beautifully designed. They're not disturbing the beach. I  
13 support the project. Thank you.

14 MS. MAGUIRE: Hi. My name is Leilani Maguire. I'm  
15 a new-comer here. I've been here for 36 years and I live on  
16 Aukai, maybe seven houses away or so.

17 Nobody's brought up the fact that the developers  
18 say this is costing 40 to 45 million dollars. My home is  
19 not that expensive and I don't think anybody else who lives  
20 in this neighborhood has that kind of value on their  
21 property. We know what's happened already with houses  
22 selling on Aukai for three to four million dollars and on  
23 Kahala Avenue way more. It's just going to be sky high for  
24 property taxes and some of us are retired and some of us are  
25 on set income.

1 MS. GORELANGTON: My name is Lori Gorelangton. I  
2 recognize a few people in the audience, not everybody. But  
3 I've been living in this neighborhood since 1953 when I was  
4 two and I went to this school here. I live with my mom  
5 who's now 89, Dee Smyzer.

6 And I oppose this because it's such a precedent.  
7 In the future other neighborhoods will build multiple kind  
8 of housing rather than -- if this property is supposed to  
9 have two houses on it max, that's what they should build and  
10 not make it an investment and speculate and keep building  
11 around different parts of the neighborhood. I think it's --  
12 it looks pretty but how many people can spend eight or seven  
13 million dollars to buy one of these units. You know, I  
14 disagree. This is not good for the Kahala neighborhood and  
15 I hope there's more people that feel like that.

16 HEARINGS OFFICER: All right. I ask that everyone  
17 makes sure to fill out the pink sheets for me. Is there  
18 anyone else who wishes to testify?

19 MR. GREENWELL: My name is Jim Greenwell and we  
20 live in what's been a family home since the 60's on Aukai.

21 I just want to follow the protocol that you have  
22 set up in terms of questions and answers. Just two  
23 questions which I'd appreciate if they could be clarified  
24 before we break up today.

25 One would be the point that was raised earlier in



1 terms of what trumps what trump. In other words, what is  
2 the valid, legal covenant, restrictions on this property.  
3 Did the fee deed in fact carry with it the covenants that  
4 were applicable to the leasehold? That's a really  
5 interesting point. And I think also just in terms of  
6 understanding the significance of this. It would be helpful  
7 if someone from your department could show us on this aerial  
8 map how much of the Kahala frontage on the makai side of  
9 Kahala Avenue has similar zoning as the current project area  
10 does. Thank you. That would be similar zoning and general  
11 plan designations, under the same kind of entitlements.  
12 Thank you.

13 HEARINGS OFFICER: Is there anyone else who wishes  
14 to testify?

15 Seeing no one else, Malynne, do you have any  
16 questions for the applicant?

17 MS. SIMEON: No.

18 HEARINGS OFFICER: All right. I apparently missed  
19 a wave in the back so we will allow you to testify. Is that  
20 what you're asking, to testify?

21 SPEAKER: I have a couple questions.

22 HEARINGS OFFICER: This is not a  
23 question-and-answer period. If you have testimony for the  
24 record, you're welcome to testify because I didn't see your  
25 hand. But, otherwise, this isn't a question-and-answer or

1 discussion period.

2 The staff member will get an opportunity to ask the  
3 applicant questions that they wish to have clarified for the  
4 record. And then the applicant will have the opportunity to  
5 address everybody's questions, including DPP staff, and then  
6 the public hearing will close. So there won't be a  
7 discussion session.

8 So, again, I'll give one last opportunity to  
9 testify. Okay, seeing nobody, then, Malynne, do you have  
10 any questions?

11 MS. SIMEON: No questions.

12 HEARINGS OFFICER: Okay. Would the applicant like  
13 to address any of the comments we've heard today?

14 MR. OVERTON: Hi. Thank you. Jeff Overton, Group  
15 70.

16 Basically thank you all for your testimony today.  
17 Appreciate that. I don't have too many points to clarify.  
18 I did want to address the one question about the meeting  
19 time. It is common for these public hearings to be held on  
20 a weekday just because of the city's staff requirement. So  
21 we did not pick this time. This is picked by the city and  
22 I've been doing this for about 30 years. It's fairly  
23 common. The notice goes out in advance. It's in the papers  
24 and it's out there. The neighborhood board is aware of it.

25 I also did not arrange for the weed wacker. I'm

1     sorry. But one question a gentleman had -- and I'm sorry I  
2     didn't get your name -- was the zoning that's in place out  
3     here. The zoning is R-7.5 along Kahala Avenue for not quite  
4     the hundred lots that Don talked about. It kind of changes  
5     to R-5 about halfway in here. I don't have the zoning map.  
6     And then it becomes R-5 in this section. So you can see in  
7     here it starts to become a little more dense where you have  
8     homes three, four, five deep from Kahala Avenue down to the  
9     beach. So it's not unusual to have these portions of the  
10    neighborhood where there's multiple homes extending between  
11    Kahala Avenue and down to the beach. So I hope it addresses  
12    that point.

13             Other than that, I think -- are there questions  
14    from the department?

15             HEARINGS OFFICER: Is that all you have to say,  
16    Jeff?

17             MR. OVERTON: Yeah, that's it. We appreciate the  
18    city offering this opportunity and all the folks coming out  
19    to the hearing and we realize there's a lot of comments that  
20    have come out here. We appreciate both sides of the issue.

21             Here's Craig.

22             MR. MCGINNIS: Thank you. I just want to address a  
23    couple questions that came. I think I talked about it in my  
24    opening remarks. There is a lot of questions about the  
25    covenants, all right, and I think Mr. Saunders who has left

1 even addressed that. Part of it is subject to a lawsuit  
2 currently going on about this property so I can't really  
3 speak about that.

4 We did do extensive research as a developer and  
5 legal research. And as I laid out -- I mean we believe that  
6 there are two covenants that dictate development in this  
7 area. On one side, on the makai side, there is not a  
8 restriction to a single-family dwelling. Therefore, then it  
9 goes to the city and county's Land Use Ordinances which  
10 allow a large lot based upon how much zoning there is,  
11 R-7.5, to then be divided and that's how we got the seven  
12 units that are allowable. We talked with DPP early on in  
13 this process and they confirmed our interpretation of the  
14 Land Use Ordinance. They didn't talk about the  
15 interpretation of the covenants but the Land Use Ordinance.

16 Then the other covenant on the other side of Kahala  
17 Avenue does have that restriction of one single-family  
18 dwelling. And we own a couple lots down in this area on  
19 that side that are also very large lots and we're working on  
20 selling those lots to individual homeowners because that's  
21 what those lots are designed for. They're not designed to  
22 -- they're restricted to one single-family dwelling and so  
23 we're trying to sell those lots and not develop them.

24 So hopefully that provides a little bit of  
25 clarification. Thank you very much.

1 HEARINGS OFFICER: If that concludes the  
2 applicant's statement, then this public hearing is closed.  
3 Thank you.

4 (Whereupon, on Wednesday, August 3, 2016, at 11:37  
5 a.m., the hearing was adjourned.)

6 -o0o-

7 Respectfully submitted by:

8 Jeanne Sumida  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



## RESOLUTION

GRANTING A SPECIAL MANAGEMENT AREA (SMA) USE PERMIT TO CONSTRUCT THREE TWO-STORY, TWO-FAMILY DWELLING UNITS, LANDSCAPING, SWIMMING POOLS, A CONCRETE MASONRY UNIT (CMU) WALL, AND GUEST PARKING AREAS WITHIN THE SMA, ALONG WITH MINOR STRUCTURES WITHIN THE 40-FOOT SHORELINE SETBACK AREA.

WHEREAS, on July 1, 2016, the Department of Planning and Permitting (DPP) accepted the application (File No. 2016/SMA-22) of 4607 Kahala LLC, herein referred to as the "Applicant," for an SMA Use Permit, to allow the construction of three new two-story, two-family dwelling units, landscaping, swimming pools, a CMU wall, and guest parking areas at 4607 Kahala, Honolulu, Oahu, and identified as Tax Map Key 3-5-5: 16, Reference Number 2016/SMA-22; and

WHEREAS, on August 3, 2016, the DPP held a Public Hearing which was attended by the Agent, one representative of the Applicant, and 45 members of the public; public testimony was offered by 15 members at the Public Hearing; and

WHEREAS, on September 1, 2016, within 20 working days after the close of the Public Hearing, the DPP having duly considered all evidence and the objectives, policies, and guidelines as established in Sections 25-3.1 and 25-3.2, Revised Ordinances of Honolulu (ROH), and Sections 205A-2 and 205A-26, Hawaii Revised Statutes (HRS), completed its report and transmitted its findings and recommendation of approval to the Council; and

WHEREAS, the City Council, having received the findings and recommendation of the DPP on \_\_\_\_\_, and at its meeting of \_\_\_\_\_, having duly considered all of the findings and reports on the matter, approved the subject application for an SMA Use Permit with the conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that a SMA Use Permit be issued to the Applicant under the following conditions:

- A. Construction of three two-story, two-family dwelling units, swimming pools, a rock or CMU wall, and guest parking area, and minor structures within the shoreline setback area, including open-work fences, a gate, and steps within the shoreline setback area, shall be in general conformity with the Project as described in the Report and Recommendation by the Director of the DPP, and as depicted in Exhibits B-1 through B-10. Any changes in the size or nature of the Project which have a significant effect on coastal resources addressed in Chapter 25, ROH, and Chapter 205-A, HRS, shall require a new application. Any changes



## RESOLUTION

---

which do not have a significant effect on coastal resources shall be considered a minor modification and therefore permitted under this resolution, upon review and approval of the Director of the DPP.

- B. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving's, or walls) are encountered, the Applicant shall stop work and contact the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD) immediately. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.
- C. Artificial light from exterior light fixtures, including, but not necessarily limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), HRS.
- D. Prior to any site work, the Applicant shall conduct surveys to determine the presence and/or location of seabird nesting areas within the property. No potentially disruptive activities shall occur during the breeding season (August through October) or in the vicinity of any identified nests of protected seabirds. Any observations of any threatened or endangered species in the Project area during site preparation and construction shall be reported to the DLNR Division of Aquatic Resources (DAR).
- E. All site work and/or construction activities shall be limited to daytime only.
- F. Established vegetation along the shoreline shall be maintained and shall not be removed without prior review and approval by the Director of the DPP.
- G. All minor structures (i.e., irrigation, fences, gates, and pavers) shall be contained and maintained within the property lines of the lot of origin, and shall under no circumstances extend seaward of the shoreline as depicted on the certified shoreline survey for the lot dated December 21, 2015.
- H. The Applicant shall implement infiltrative technology best management practices (BMPs) and construction processes to control erosion and sedimentation. Photographs documenting the infiltrative technology BMPs and construction processes shall be submitted to the DLNR, DAR, with a copy to the DPP.
- I. Approval of this SMA Use Permit does not constitute compliance with other LUO or other governmental requirements, including grading and grubbing permits.



## **RESOLUTION**

---

They are subject to separate review and approval. The Applicant will be responsible for insuring that the final plans for the Project approved under this permit comply with all applicable land use ordinance (LUO) and other governmental provisions and requirements.

- J. **The Applicant shall obtain a development permit for the proposed development within two years of the date of this permit.** Failure to obtain a development permit within this period shall render this permit null and void, provided that this period may be extended as follows: The Director of the DPP may extend this period if the Applicant demonstrates good cause, but the period shall not be extended beyond one year from the initial deadline set by the City Council.

If the Applicant demonstrates good cause for an extension exceeding one year, the Director shall prepare and submit to the Council a report on the proposed extension, which the report shall include the Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution. If the Council fails to take final action on the proposed extension within the first to occur of: (a) 60 days after receipt of the Director's report; or, (b) the Applicant's then-existing deadline for obtaining a building permit, the extension shall be deemed to be denied.





**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. \_\_\_\_\_

---

## RESOLUTION

---

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that copies of this resolution be transmitted to Jeff Overton, Group 70 International, Inc., 925 Bethel Street, 5<sup>th</sup> Floor, Honolulu, Hawaii 96813; 4607 Kahala LLC, 822 Bishop Street, Honolulu, Hawaii 96813; George I. Atta, Director of the Department of Planning and Permitting, 650 South King Street, 7<sup>th</sup> Floor, Honolulu, Hawaii 96813; and Leo R. Asuncion, Jr., Acting Director of the Office of Planning, Attention: Coastal Zone Management Branch, P. O. Box 2359, Honolulu, Hawaii 96804.

INTRODUCED BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF INTRODUCTION:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

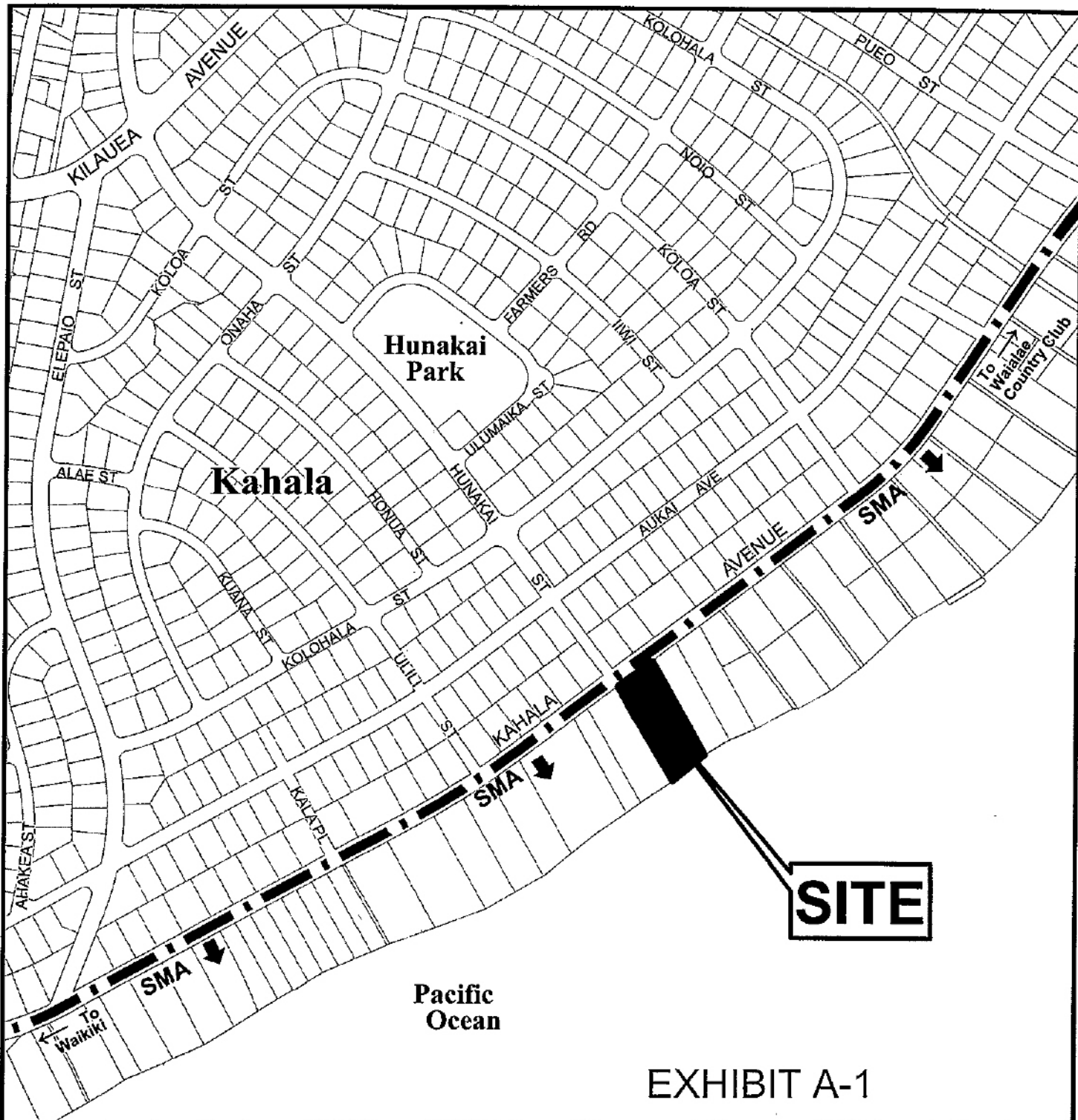
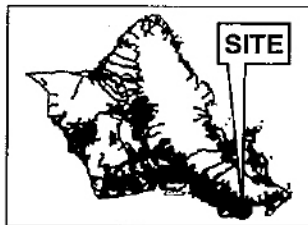


EXHIBIT A-1



500 250 0 500

Scale in Feet



VICINITY MAP



# **LOCATION MAP with SMA KAHALA**

**TAX MAP KEY(S): 3-5-05: 16**

**FOLDER NOS.: 2016/SMA-22**

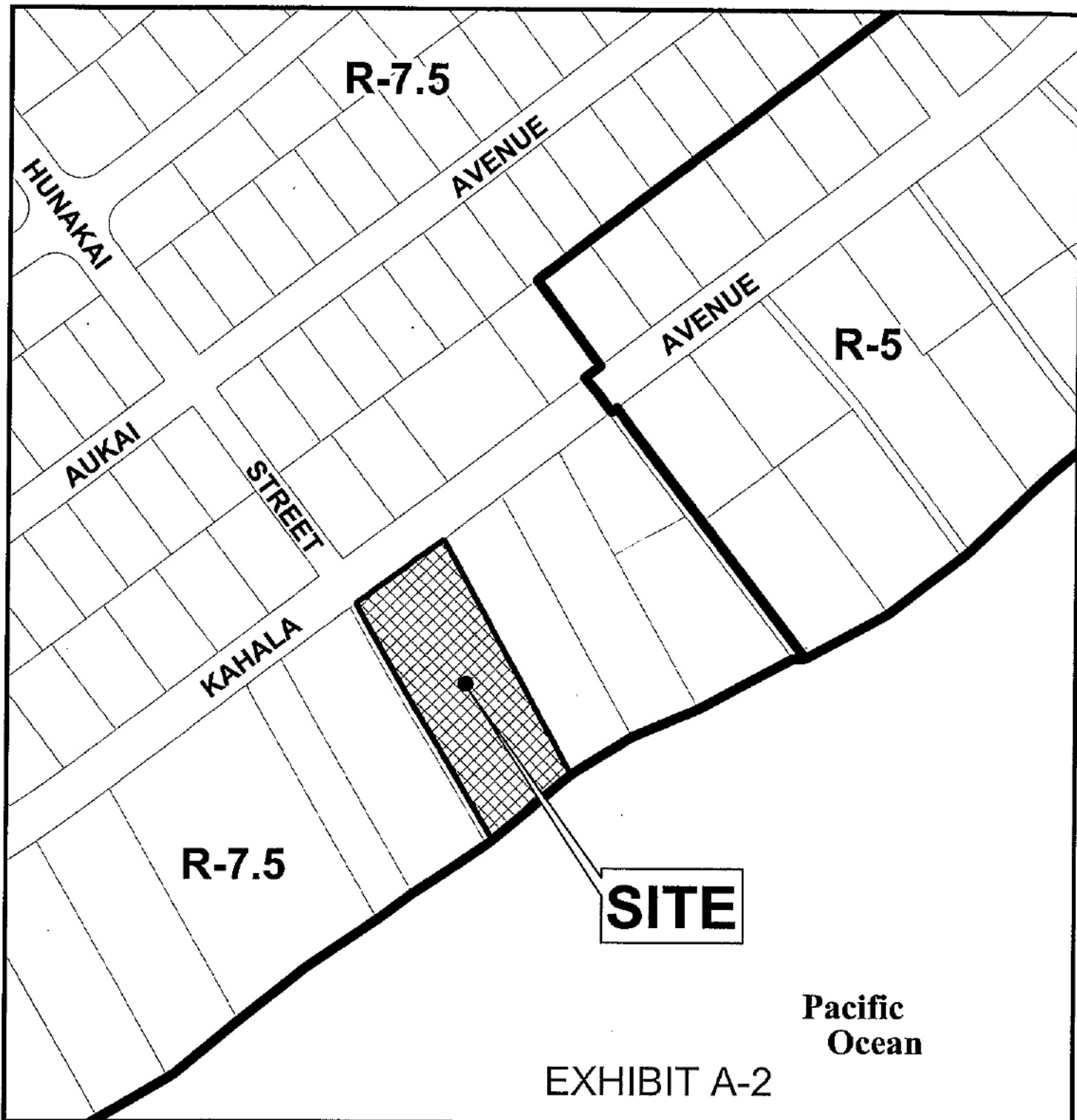
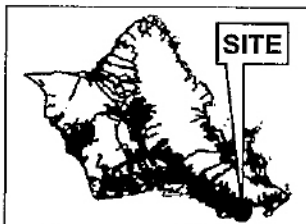
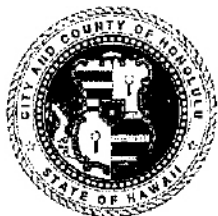


EXHIBIT A-2



VICINITY MAP

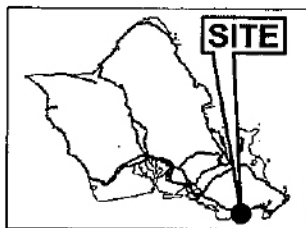
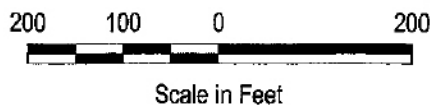
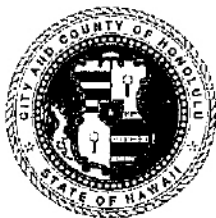
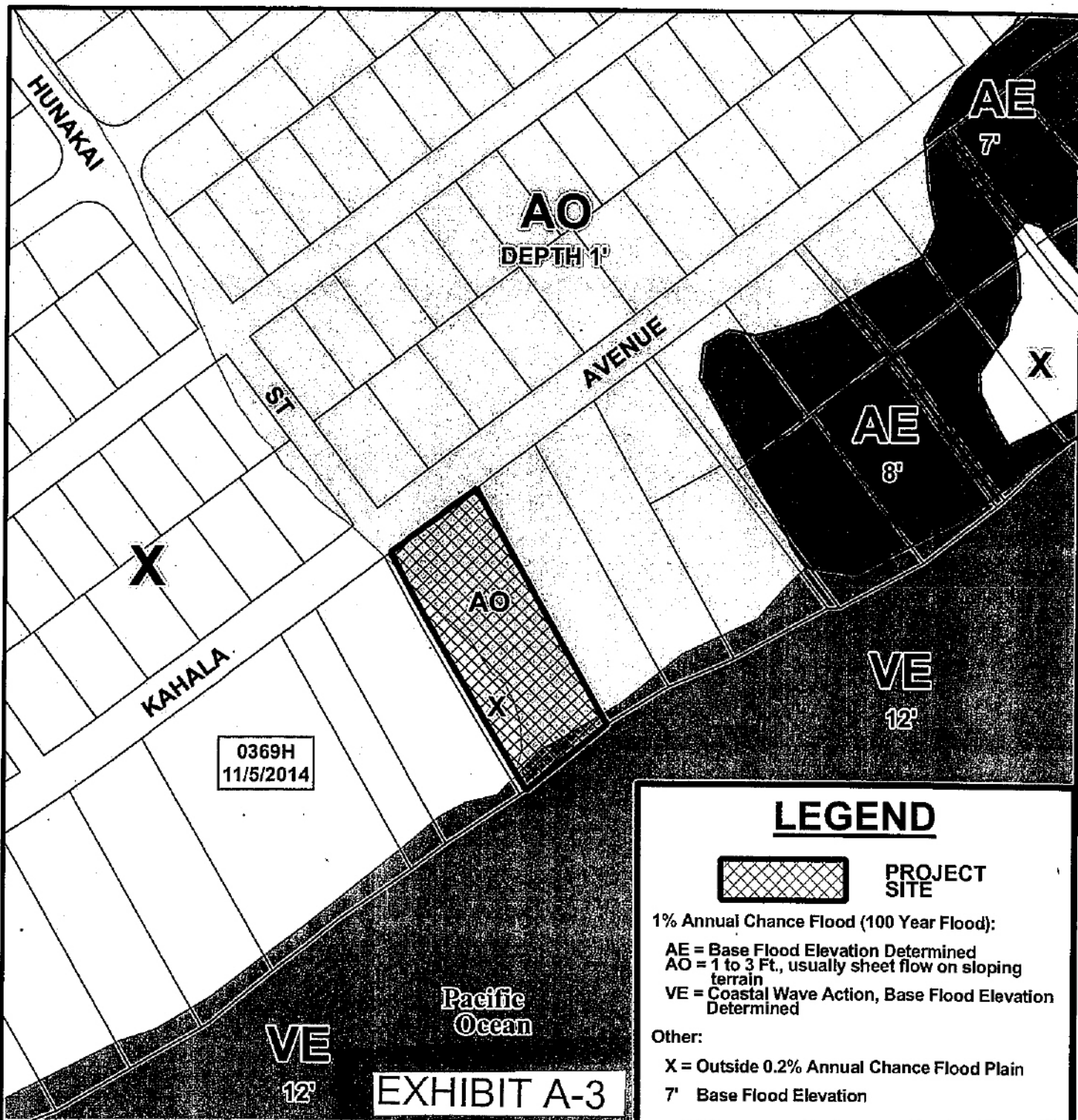


## PORTION OF ZONING MAP

KAHALA - KULIOUOU

TAX MAP KEY(S): 3-5-05: 16

FOLDER NO.: 2016/SMA-22



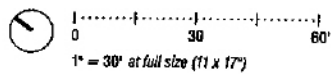
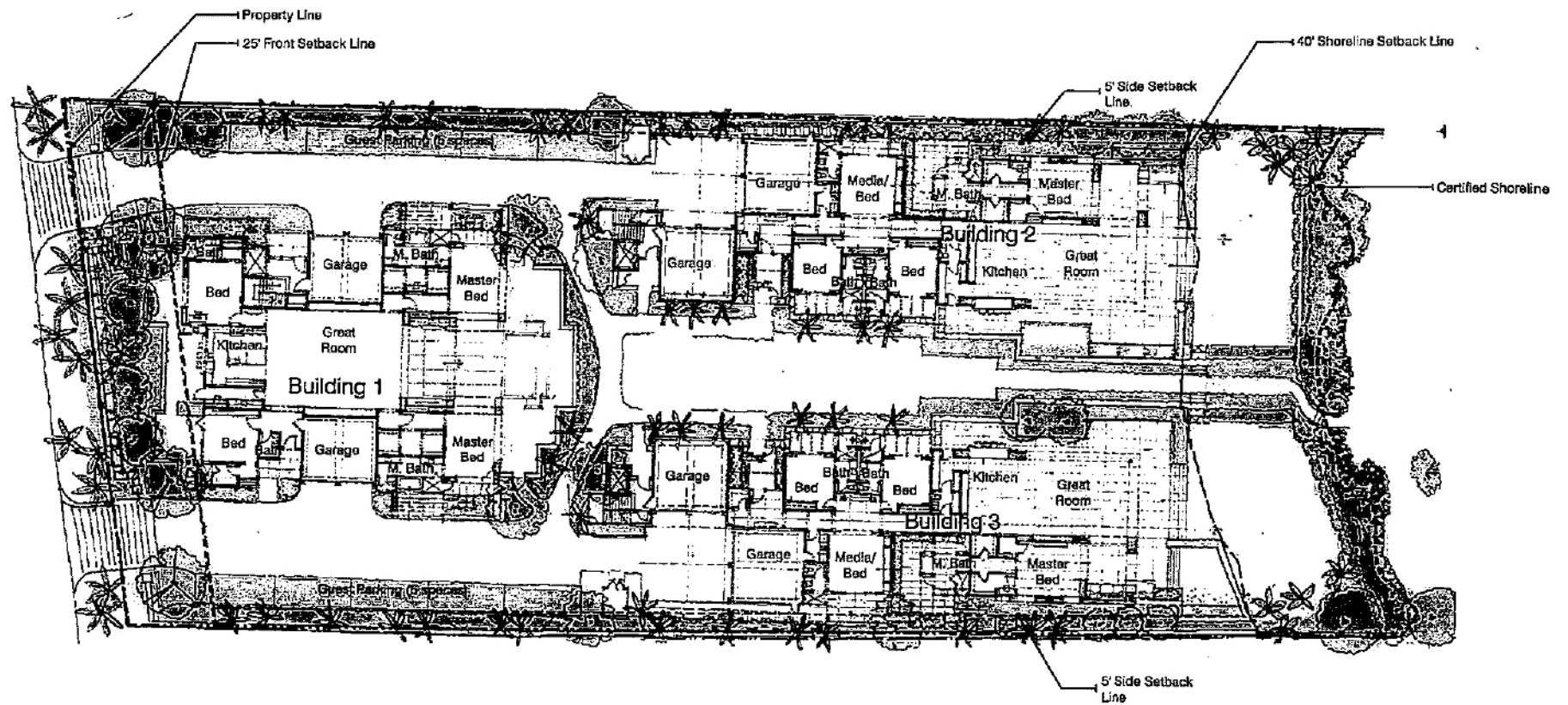
VICINITY MAP



**PORTION OF  
FLOOD HAZARD MAP  
FIRM PANEL 369H (11/5/2014)**

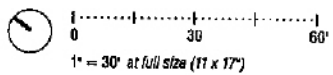
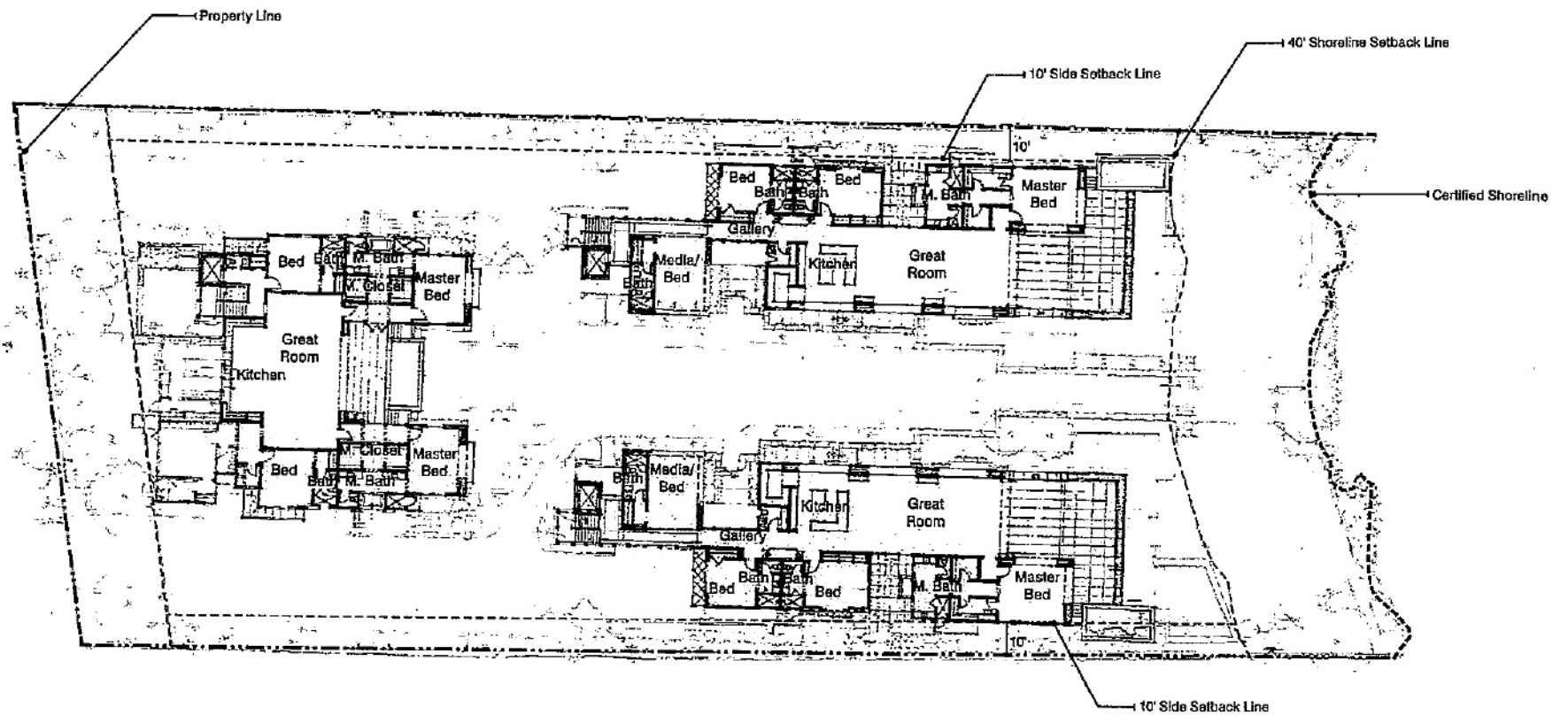
**TAX MAP KEY(S): 3-5-05: 16**

**FOLDER NOS.: 2016/SMA-22**



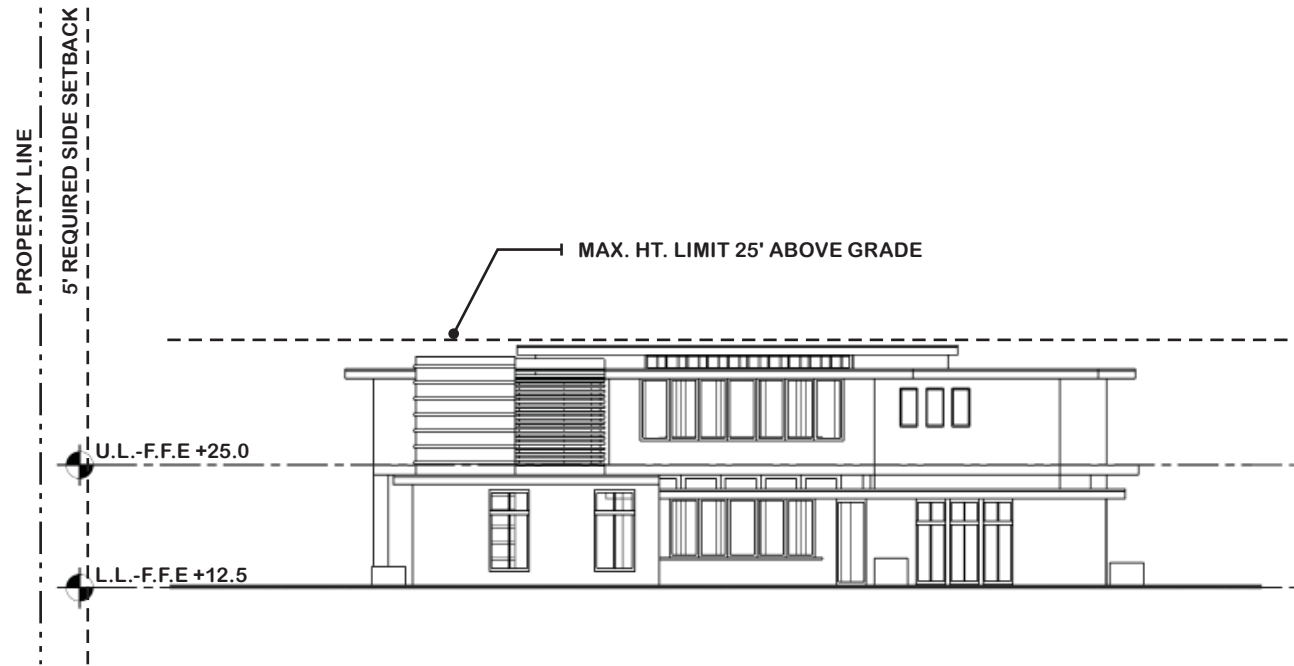
## First Floor Plan

Exhibit B-1  
File No. 2016/SMA-22

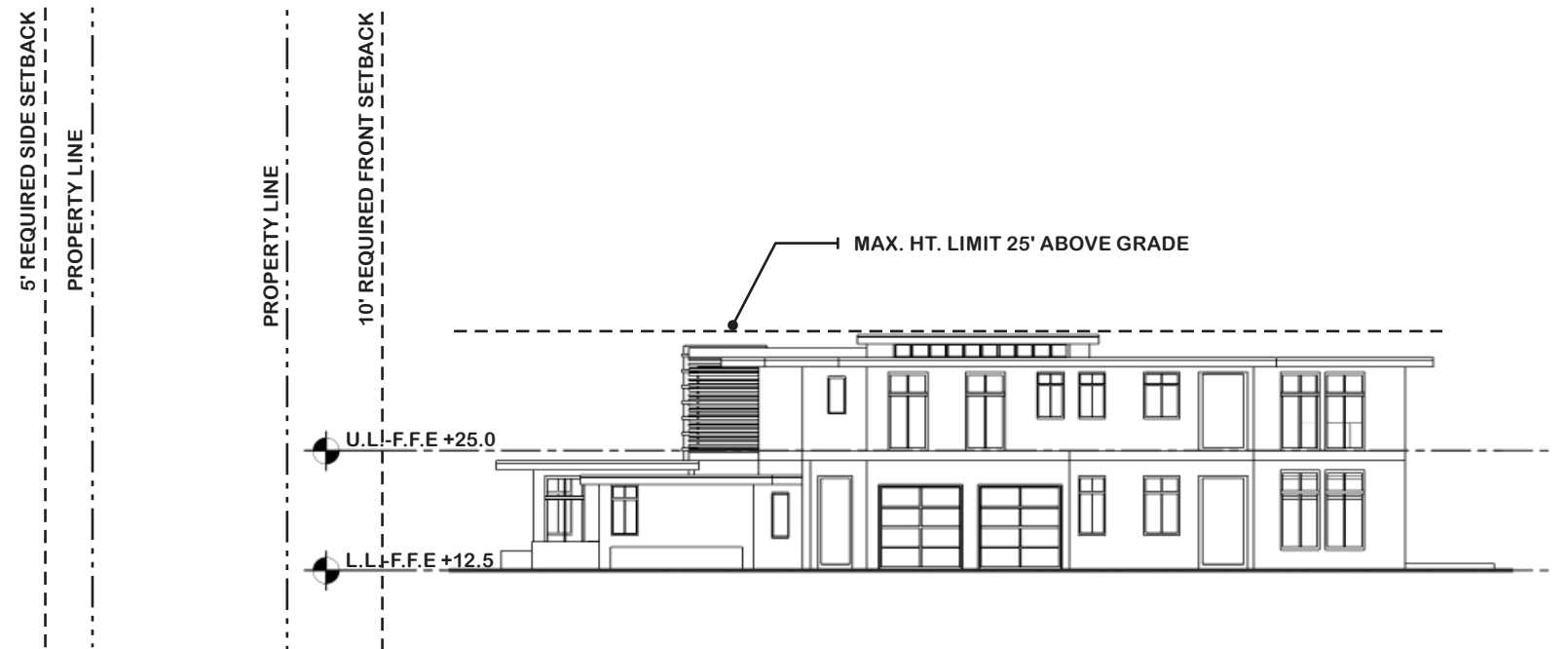


## Second Floor Plan

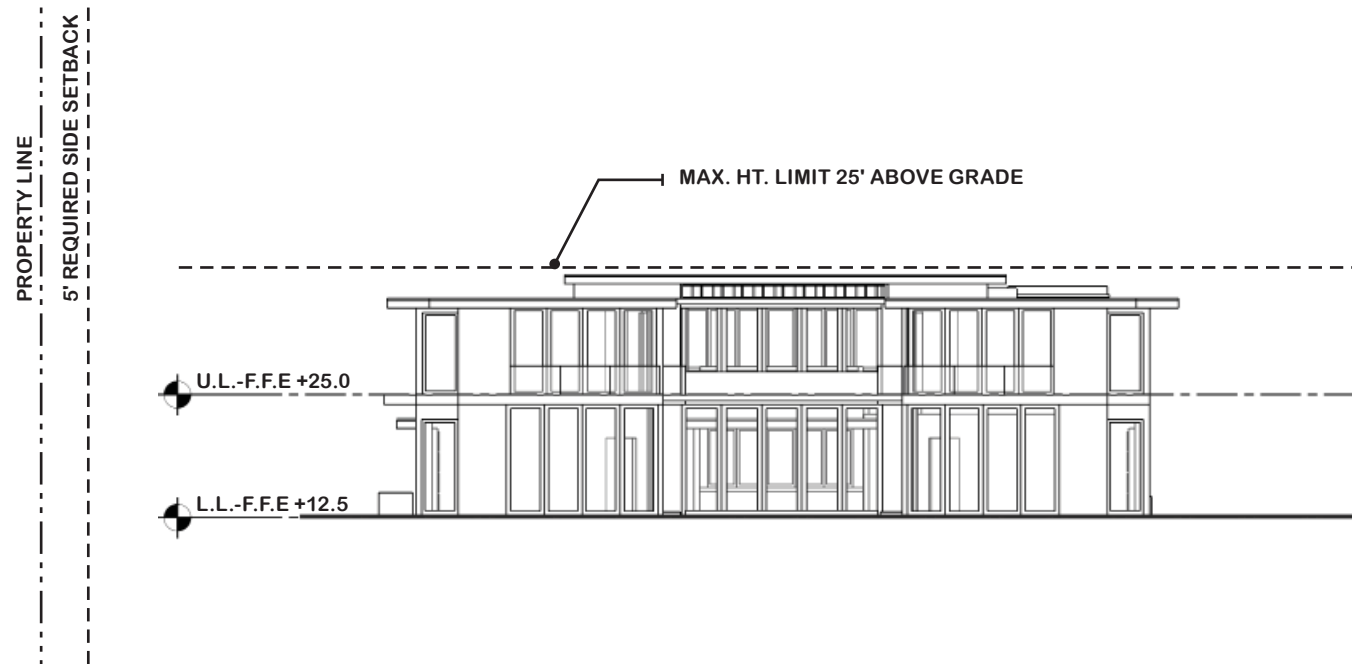
Exhibit B-2  
File No. 2016/SMA-22



Building 1 North Elevation



Building 1 East Elevation



Building 1 South Elevation

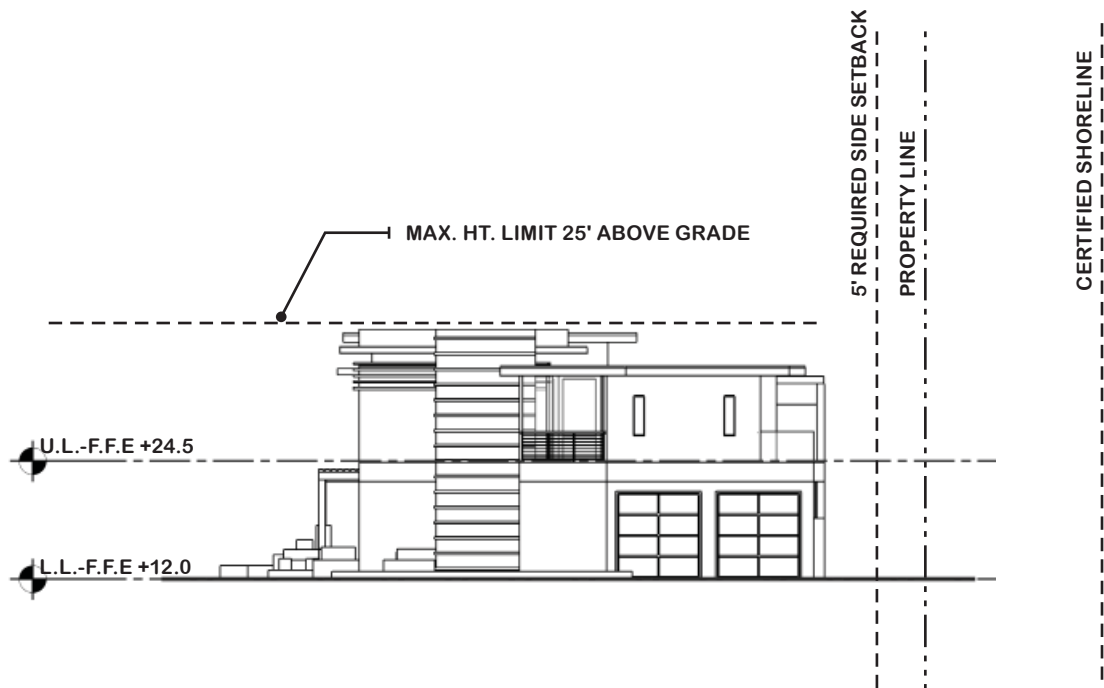


Building 1 West Elevation

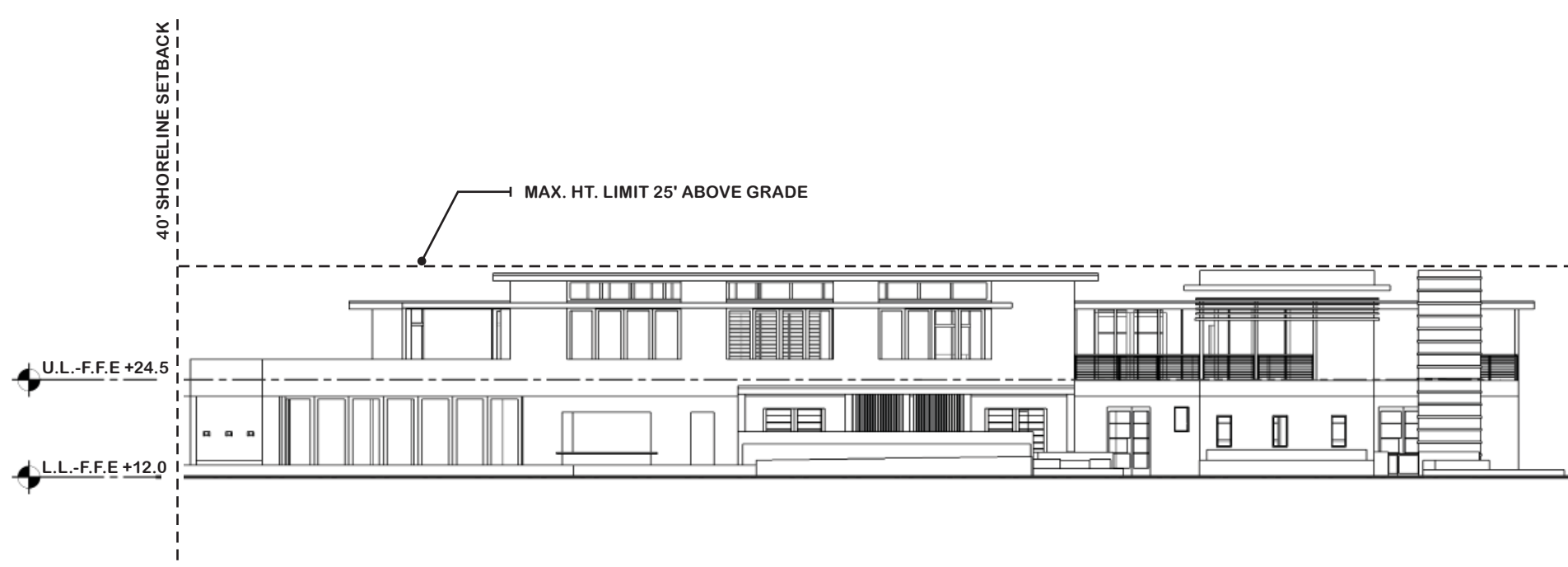
0 20 40'  
1" = 20' at full size (11 x 17")

Exhibit B-3  
File No. 2016/SMA-22

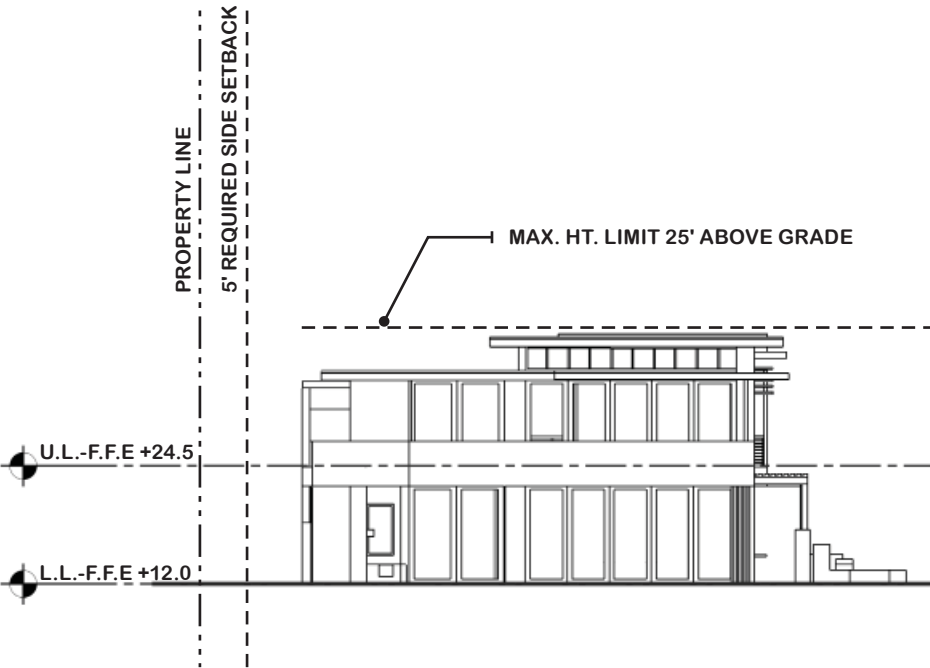
Elevations



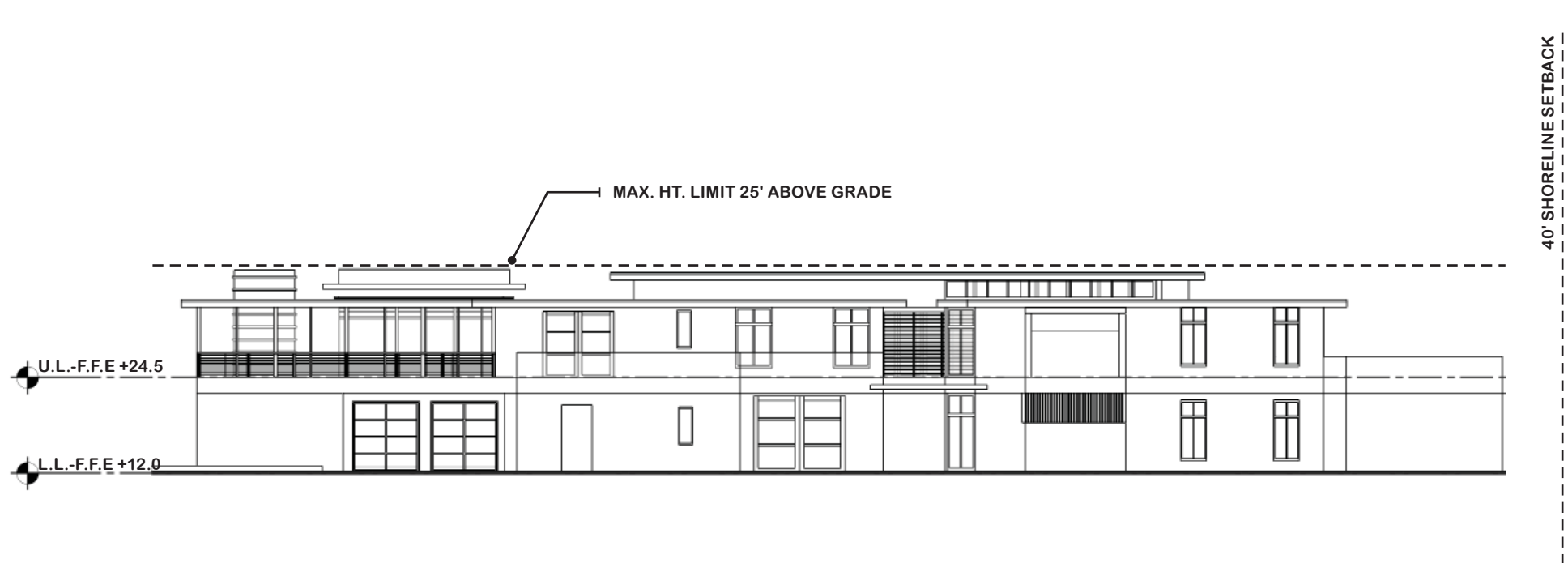
Building 3 North Elevation



Building 3 East Elevation



Building 3 South Elevation



Building 3 West Elevation

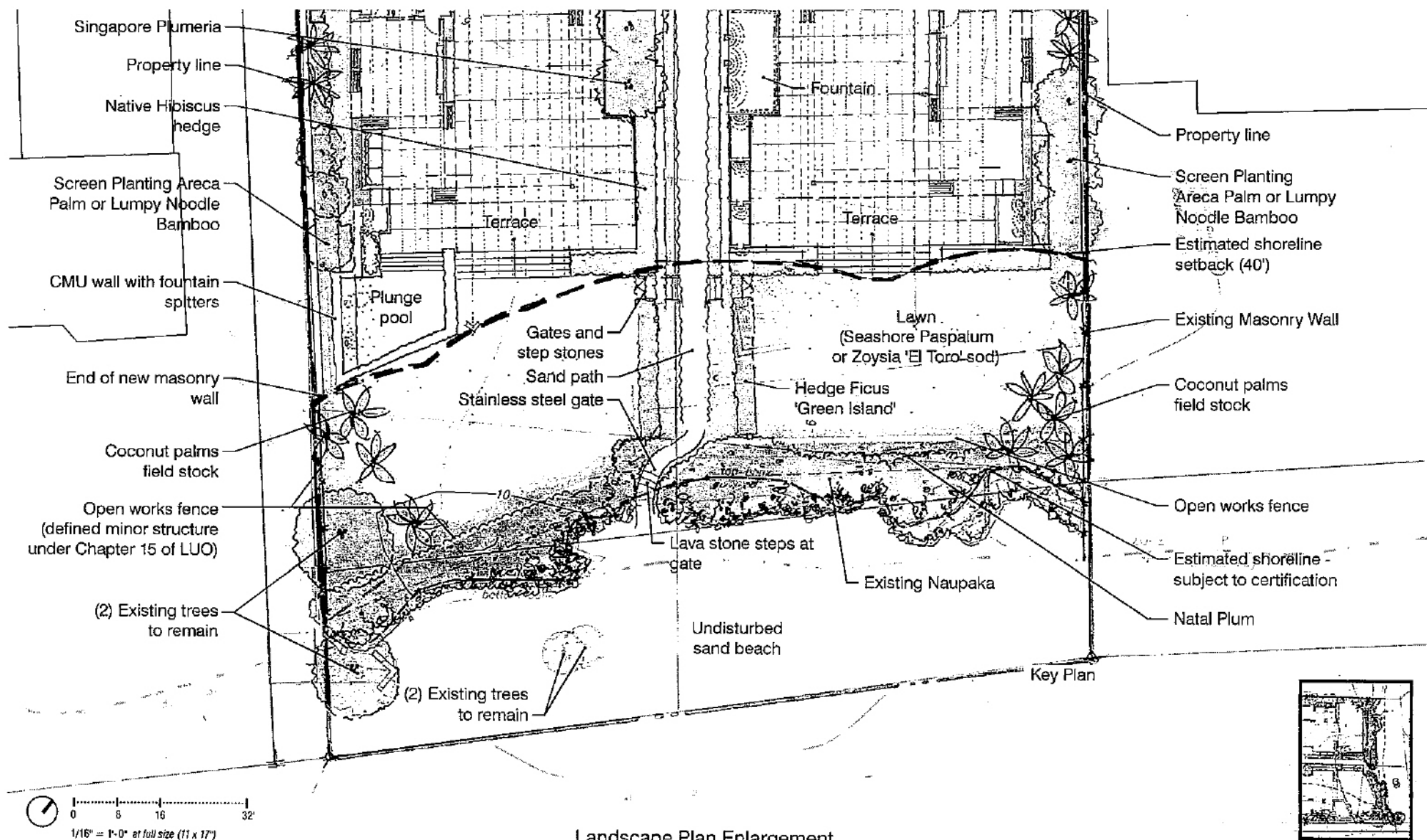
0 20 40'  
1" = 20' at full size (11 x 17")

Exhibit B-4  
File No. 2016/SMA-22

Elevations

Note: Building 2 identical to Building 3 but mirrored





Landscape Plan Enlargement

Exhibit B-5  
File No. 2016/SMA-22

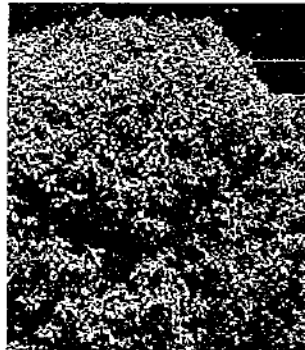
## Smaller Shrubs



Green Ti



Purple Spider Lily



Kului



Beach Naupaka



Crinum Lily



Giant White Thunbergia

## Vines

## Groundcovers



Kupukupu Fern



Carex



Ukiuki



Akia



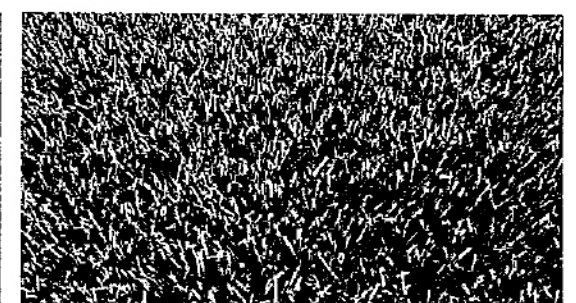
Kangaroo Paw Laua'e



Pohinahina



Ulei



'El Toro' Zoysia Lawn

## Palms and Trees



Coconut Palm



Areca Palm



Thornless Hala Tree



Singapore Plumeria



Loulu Palm

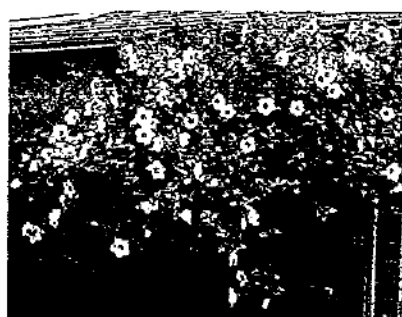
## Tall Shrubs



Borneo Giant 'Ape



Natal Plum



Native White Hibiscus



Native Red Hibiscus



'Buddah Belly' Bamboo



Dwarf 'Ape' (*A. gageana*)



Lumpy Noodle Bamboo



Red Ginger



'Burle Marx' Philodendron

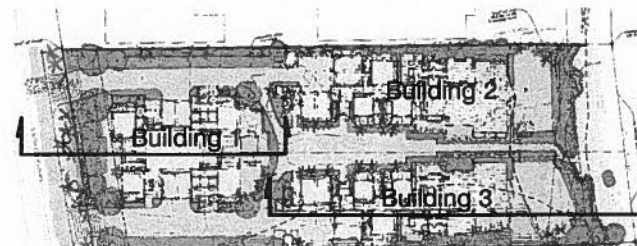
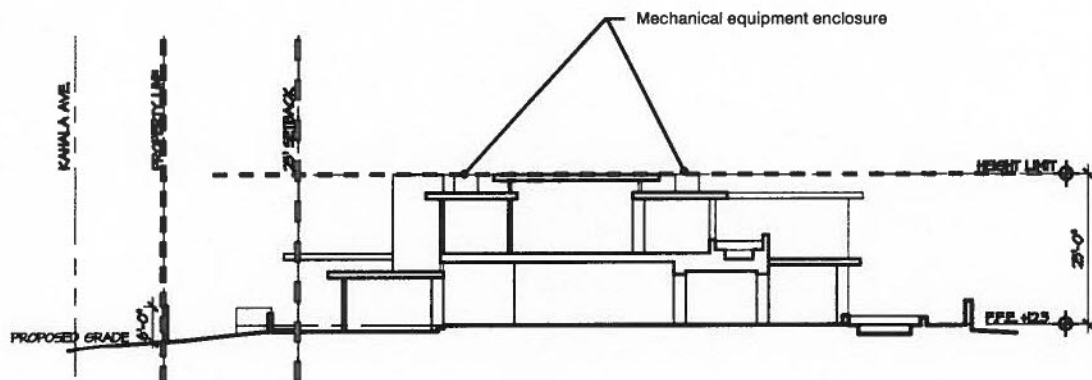
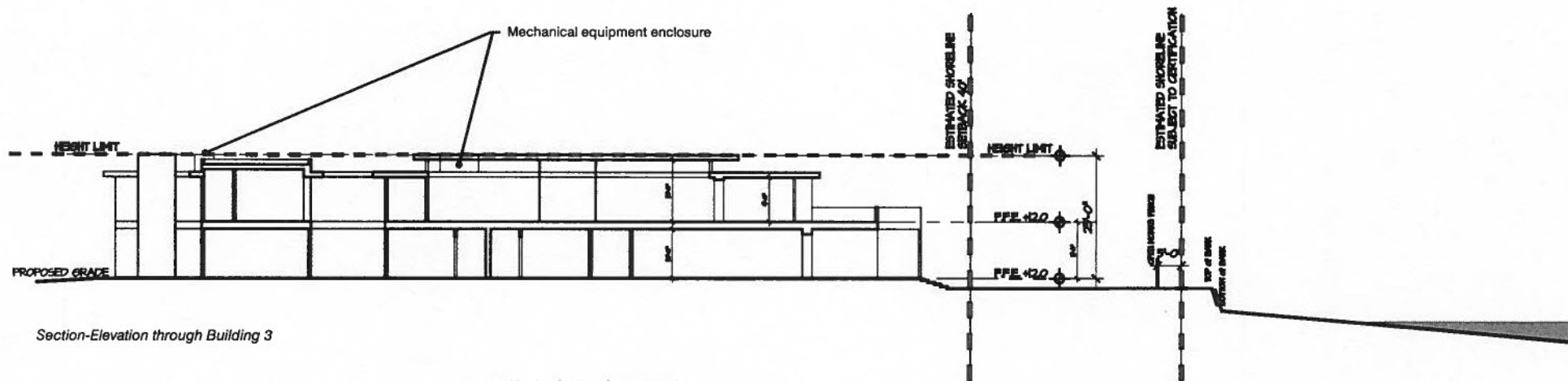


Nau Gardenia

## Plant Palette

Exhibit B-7

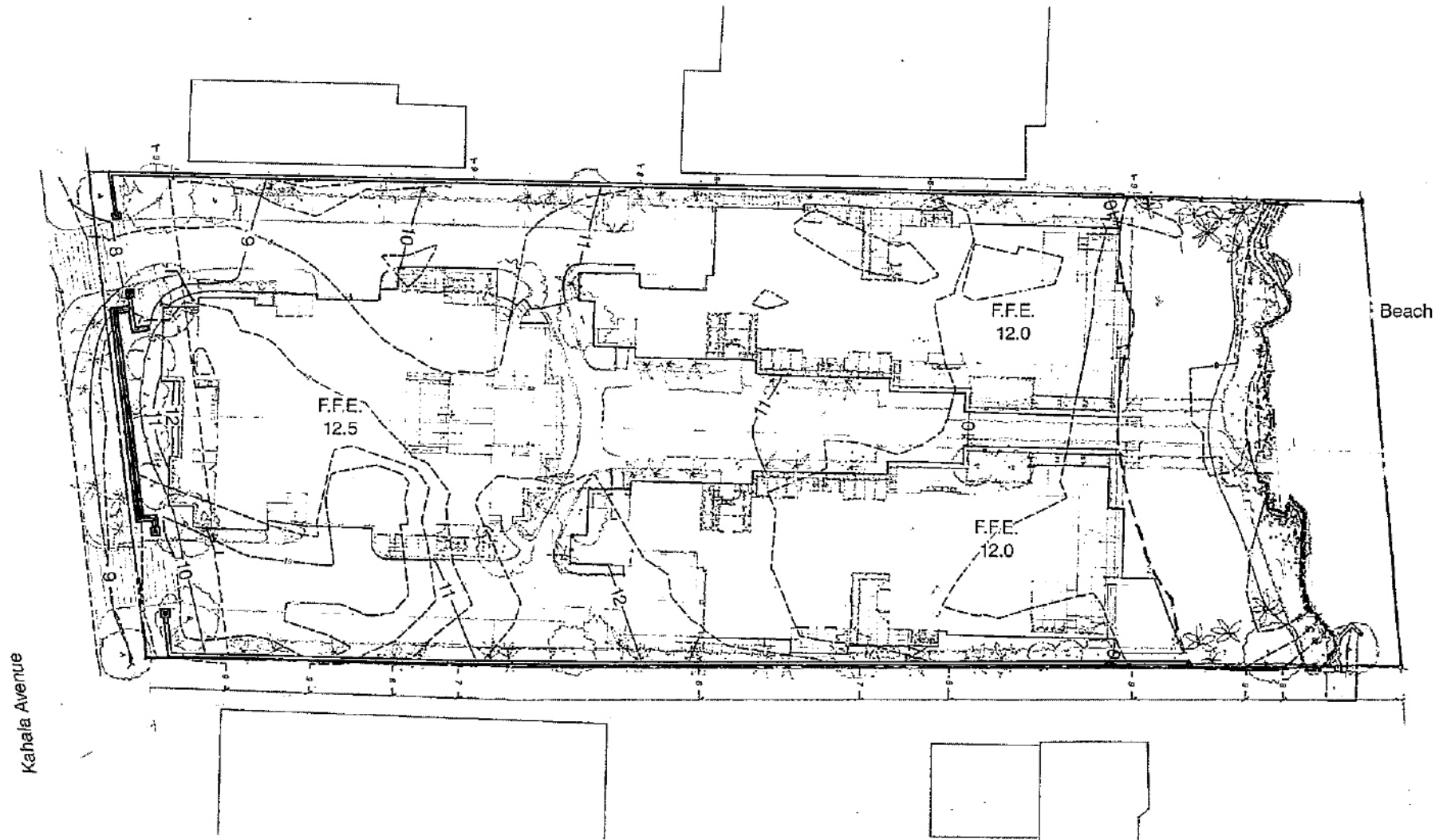
File No. 2016/SMA-22



0 20 40  
1" = 20' at full size (11 x 17")

## Site Sections

Exhibit B-8  
File No. 2016/SMA-22



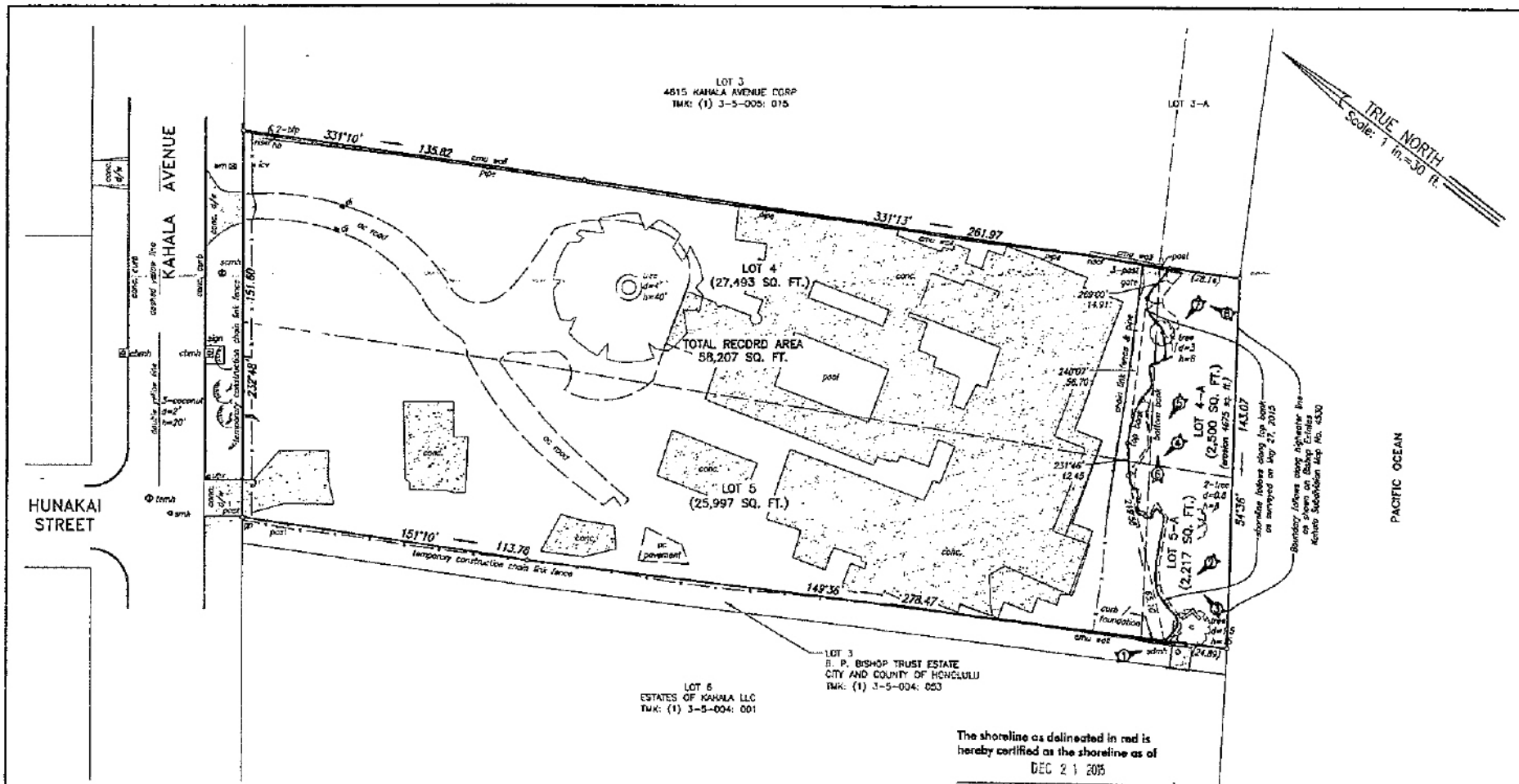
0 30 60  
1" = 30' at full size (11 x 17")

Note: Contour lines outside property boundary are approximate

# Grading Concept Plan

Exhibit B-9  
File No. 2016/SMA-22

--- Existing Contour  
— Proposed Contour



#### NOTES

1. Azimuths shown on this map are referred to Government Survey Triangulation Station "LEANI".
2. Names of adjoining property owners were taken from Real Property Tax Records.
3. Shoreline certification is for building setback purposes.  
—○— Denotes photo number and direction.
4. Map is based on a field survey on May 27, 2015.

#### SHORELINE CERTIFICATION MAP OF LOTS 4, 4-A, 5 AND 5-A OF THE KAHALA SUBDIVISION BEING PORTION OF ROYAL PATENT T121, LAND COMMISSION AWARD 228, APANA 2 TO KALEIHEANA SITUATED IN KAHALA, HONOLULU, OAHU, HAWAII TAX MAP KEY: (1) B-5-005: 016

SITE ADDRESS: 4807 KAHALA AVENUE  
HONOLULU, HAWAII 96816  
OWNER: 4807 KAHALA LLC

Exhibit B-10  
File No. 2016/SMA-22



AUSTIN, TSUTSUMI, & ASSOCIATES INC.  
501 SUMNER STREET, SUITE 921  
HONOLULU, HI 96817, (808) 533-3640

THIS WORK WAS PREPARED BY ME  
OR UNDER MY SUPERVISION.

*Erik S. Kaneshiro*  
ERIK S. KANESHIRO  
LICENSED PROFESSIONAL LAND SURVEYOR  
CERTIFICATE NO. 9826

TWK: (1) 3-5-005: 016

Y:\2015\15-040\SURVEY\DWG\4807 KAHALA AVE SHORELINE CERT.dwg  
JOB NO.: 15-040

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.  
LICENSED SURVEYORS • HONOLULU, HAWAII, U.S.A.

JUNE 29, 2015  
15" X 21" = 2.19 SQ. FT.